THE FOREIGN MISSIONS ACT OF 1982

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 854

A BILL TO PROMOTE THE ORDERLY CONDUCT OF INTERNATIONAL RELATIONS BY FACILITATING THE OPERATION OF FOREIGN MISSIONS IN THE UNITED STATES, THEREBY PROMOTING THE SECURE AND EFFICIENT OPERATION OF UNITED STATES MISSIONS ABROAD

JULY 24, 1981

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THE FOREIGN MISSIONS ACT OF 1982

FRIDAY, JULY 24, 1981

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 4221, Dirksen Senate Office Building, Hon. Charles H. Percy (chairman of the committee) presiding.

Present: Senator Percy.

The CHAIRMAN. We welcome all of you here today.

The committee will be hearing testimony on S. 854, the Foreign Missions Act of 1982.

[Text of S. 854 follows:]

II

97TH CONGRESS
1ST SESSION

S. 854

To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, FEBRUARY 16), 1981

Mr. PERCY introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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A BILL

To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the State Department Basic Authorities Act of 1956 is amended by striking out "That the Secretary" in the first section and inserting in lieu thereof the following:

"TITLE I—BASIC AUTHORITIES GENERALLY

"SECTION 1. The Secretary".

(b) That Act is further amended by adding at the end thereof the following:

"TITLE II—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS

"DECLARATION OF FINDINGS AND POLICY

"SEC. 201. (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

"(b) The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

"(c) The assistance to be provided to a foreign mission in the United States shall be determined after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission.

"DEFINITIONS

"SEC. 202. (a) For purposes of this title—

"(1) 'benefit' (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

"(A) real property by purchase, lease, exchange, construction, or otherwise,

"(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

"(C) supplies, maintenance, and transportation,

"(D) locally engaged staff on a temporary or regular basis,

"(E) travel and related services, and

"(F) protective services,

and includes such other benefits as the Secretary may designate;

"(2) 'chancery' means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

"(3) 'Director' means the Director of the Office of Foreign Missions established pursuant to section 203(a);

"(4) 'foreign mission' means any official mission to the United States involving diplomatic, consular, or other governmental activities of—

"(A) a foreign government, or

"(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States,

including any real property of such a mission and including the personnel of such a mission;

"(5) 'real property' includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

"(6) 'Secretary' means the Secretary of State;

"(7) 'sending state' means the foreign government, territory, or political entity represented by a foreign mission; and

"(8) 'United States' means, when used in a geographic sense, the several States, the District of Co-

lumbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary.

"OFFICE OF FOREIGN MISSIONS

"SEC. 203. (a) The Secretary shall establish an Office of Foreign Missions as an independent office within the Department of State. The Office shall be headed by a Director, appointed by the Secretary, who shall perform his or her functions under the supervision and direction of the Secretary. The Secretary may delegate this authority for supervision and direction of the Director only to the Deputy Secretary of State or an Under Secretary of State.

"(b) The Secretary may authorize the Director to—

"(1) assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled;

"(2) provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204; and

"(3) perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

"PROVISION OF BENEFITS

"SEC. 204. (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Director on such terms and conditions as the Secretary may approve.

"(b) The Secretary may require a foreign mission to obtain benefits from or through the Director on such terms and conditions as the Secretary may approve, if the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

"(1) to facilitate relations between the United States and a sending state;

"(2) to protect the interests of the United States;

"(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad; or

"(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending state.

"(c) The Secretary may require any foreign mission to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement; the acquisition, retention, or use of any real property; or the application for or acceptance of any benefit (including any bene-

fit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

"(d) Terms and conditions established by the Secretary under this section may include—

"(1) a requirement to pay to the Director a surcharge or fee, and

"(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title.

"(e) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate the Director or any other officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

"PROPERTY OF FOREIGN MISSIONS

"SEC. 205. (a)(1) The Secretary may require any foreign mission to notify the Director prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. If such a notification is required, the foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

"(A) only after the expiration of the sixty-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

"(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

"(2) For purposes of this section, 'acquisition' includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by foreign mission.

"(b) The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

"(1) not to have been acquired in accordance with this section; or

"(2) to exceed limitations placed on real property available to a United States mission in the sending state.

"(c) If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

"(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

"(2) may authorize the Director to dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending state the net proceeds from such disposition.

"LOCATION OF FOREIGN MISSIONS

"SEC. 206. (a) In order to ensure the fulfillment of the international obligations of the United States and fulfillment

of the policy of this title, and to ensure the orderly development of the national capital, the location, height, bulk, number of stories, and size of any building or other real property of a foreign mission in the District of Columbia, and the provision for open space in and around any such building or other property, shall be subject to approval by the National Capital Planning Commission (hereafter in this section referred to as the 'Commission'). This subsection does not apply with respect to a building or other real property of a foreign mission if the Commission determines that the property will only be used by a party other than a foreign mission and will only be used for activities that do not involve the diplomatic, consular, or other governmental activities of a foreign mission.

"(b) Any determination by the Commission pursuant to subsection (a) of this section which involves approval of the location of or a use of real property for a chancery, or involves approval of site and building plans for a chancery, shall be considered rulemaking under section 553 of title 5, United States Code, and shall be based solely on the following criteria:

"(1) the Federal interest;

"(2) the chancery is in an area (A) of predominantly office use, (B) of mixed use, including residential, commercial, office, or institutional use, (C) of

medium or high density residential use, or (D) in reasonable proximity to streets on which existing chanceries are concentrated;

"(3) historic preservation (as determined in accordance with regulations issued by the Commission in carrying out this section);

"(4) the extent to which the area will be served by public transit to reduce parking requirements;

"(5) the extent to which the area will have adequate public facilities, utilities, and services, including streets, street lighting, water, sewer, electricity, telephone, and refuse collection;

"(6) the area is capable of being adequately protected, as determined by a Federal agency authorized to perform protective services; and

"(7) the municipal interest.

Any other determination by the Commission with respect to real property of a foreign mission pursuant to subsection (a) of this section shall be based solely on the criteria specified in paragraphs (1), (3), (6), and (7), and such other criteria as the Commission may by regulation establish.

"(c) In any proceeding with respect to real property of a foreign mission pursuant to subsection (a) of this section—

"(1) a determination by the Secretary as to the Federal interest shall be given substantial weight; and

"(2) a determination by the Mayor of the District of Columbia as to the municipal interest shall be given substantial weight.

"(d) In any proceeding with respect to real property of a foreign mission pursuant to subsection (a) of this section, the final determination with respect to approval of a location or use or approval of site and building plans shall be made not later than five months after the date of filing an application for such approval.

"PREEMPTION

"SEC. 207. Notwithstanding any other provision of law, no act of any Federal agency or of any State or municipal governmental authority shall be effective to confer or deny any benefits with respect to any foreign mission contrary to this title.

"GENERAL PROVISIONS

"SEC. 208. (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

"(b) compliance with any regulation, instruction, or direction issued by the Secretary under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in

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good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued by the Secretary under this title.

"(c) For purposes of administering this title, the Secretary may—

"(1) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the rate payable for level IV of the Executive Schedule, under contracts which may be renewed annually;

"(2) obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to availability of funds), the services of individuals to provide technical and professional services required to carry out the functions of the Director; and

"(3) accept details and assignments of employees of Federal agencies to the Office of Foregin Missions on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency).

"(d) Contracts and subcontracts for supplies or services (except for personal services), made by or on behalf of the Director, shall be made after advertising, in such manner and

at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed $10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatability of the supplies or services with implementation of this title.

"(e) The head of any Federal agency may, for purposes of this title—

"(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Office of Foreign Missions (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

"(2) acquire and accept services from the Office of Foreign Missions, including (whenever the Secretary determines it to be in furtherance of the purposes of

this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

"(f) Assets of or under the control of the Office of Foreign Missions, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

"(g) Except as otherwise provided, any determination required under this title shall be committed to the discretion of the Secretary. Except as provided in the first sentence of section 206(b), actions taken under the authority of this title shall not be considered rulemaking within the meaning of section 553 of title 5, United States Code.

"(h)(1) In order to implement this title, the Secretary may transfer such amounts available to the Department of State as may be necessary to the working capital fund established by section 13 of this Act.

"(2) Notwithstanding any other provision of law, all revenues, including proceeds from gifts and donations, received by the Director or the Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

"APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

"SEC. 209. (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same exent that it is applicable with respect to a foreign mission if the Secretary determines, after consultation with the international organization, that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

"(b) For purposes of this section, 'international organization' means—

"(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f–2) or other law authorizing such status; and

"(2) an official mission (other than a United States mission) to such a public international organization,

including any real property of such an organization or mission and including the personnel of such an organization or mission.

"PRIVILEGES AND IMMUNITIES

"SEC. 210. Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title, shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

"ENFORCEMENT

"SEC. 211. It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. This section shall be enforceable in any appropriate district court of the United States by injunctive or other equitable relief upon application by the Attorney General.

"SEVERABILITY

"SEC. 212. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.".

(c) Section 13 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2684) is amended in the first sentence by striking out "and" following the semicolon at the end of clause (3), and by inserting immediately before the

period at the end thereof "; and (5) services and supplies to carry out title II of this Act".

(d)(1) Subparagraph (A) of section 2(1) of the Diplomatic Relations Act (22 U.S.C. 254a(1)(A)) is amended to read as follows:

"(A) the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,".

(2) Section 3(b) of such Act (22 U.S.C. 254b) is amended to read as follows:

"(b) With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.".

(3) Section 4 of such Act (22 U.S.C. 254c) is amended—

(A) by inserting "the mission, the" immediately after "immunities for"; and

(B) by striking out "of any sending state".

(4) Section 1364 of title 28, United States Code, is amended by striking out "as defined in the Vienna Convention on Diplomatic relations" and inserting in lieu thereof "within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))".

(e) The Act of June 20, 1938 (Public Law 684, Seventy-fifth Congress; 52 Stat. 797) is amended—

(1) in section 6 by striking out "(a)", and by striking out subsections (b), (c), (d), and (e); and

(2) in section 16 by adding at the end thereof the following new sentence: "In addition, the provisions of this Act shall not apply to any real property to which section 206(a) if the State Department Basic Authorities Act of 1956 (relating to foreign missions) is applicable.".

The CHAIRMAN. I should like to pay tribute to Congressman Dante Fascell of Florida, who has been interested in this particular issue for some time, and who has shown a great deal of leadership in the House on this subject.

The purpose of the bill is to address a serious and growing imbalance between the treatment accorded in many countries to official missions of the United States, and that made available to foreign government missions in the United States. Under current law, the Department of State lacks authority compared to that enjoyed by many other governments to enforce reciprocity in an appropriate and effective manner.

S. 854 will provide mechanisms whereby the operations of foreign missions in the United States and the benefits available to them from Federal, State, and local authorities, public utilities and private persons, may be cleared through the Federal Government and adjusted according to U.S. needs abroad, as well as national security interests here at home.

In this way, the conditions under which foreign missions operate in the United States can be made to reflect the conditions under which missions of the United States are required to operate in the countries represented by such foreign missions. As a result, foreign governments will have an incentive to provide fair, equitable, and nondiscriminatory treatment to U.S. missions and personnel in their territory, thus contributing to significant savings in the costs of operating U.S. missions, improved working conditions for U.S. personnel, and mutual respect in our foreign relations.

I realize that parts of S. 854 are the cause of some concern to officials and citizens of the District of Columbia. I have heard from many of my dear friends in the District. I have lived in the District myself for 15 years. I consider myself a citizen of both Illinois and the District of Columbia and believe I should be a part of this city. I am deeply concerned about its welfare and about the concerns that have been expressed to me by some of our very prominent citizens.

It is the purpose of these hearings to examine all the strengths and weaknesses of this bill in order, eventually, to arrive at an equitable balance of the Federal and local interests affected by this legislation.

I would say also that I serve as ranking Republican on the Governmental Affairs Committee, which has jurisdiction over the District of Columbia in many of these areas. I have worked closely with Senator Mathias and others. Certainly, the spirit of this hearing is not to present a bill laid in concrete, which we will not change. I always introduce legislation with the feeling that the purpose of a hearing is to point out the inadequacies of the legislation. I repeat, the bill is not set in concrete. The main thrust of what we are trying to do is give reciprocity to the United States with respect to actions taken against the United States. We have been exploited and gouged in many ways by countries abroad. We want to be in a position to say to those countries that we will treat their missions in the United States the same as they treat our missions in their homeland.

I do realize that parts of this bill are somewhat controversial, and it is for this reason that we are delighted to have some very prominent witnesses today.

Our first witness is Hon. Marion S. Barry, Jr., Mayor of the District of Columbia.

Is the Mayor here?

[No response.]

The CHAIRMAN. If not, we will proceed with our second witness. We will hear from Hon. Thomas M. Tracy, Assistant Secretary for Administration of the Department of State.

Mr. Tracy, we are happy to have your statement at this time.

STATEMENT OF HON. THOMAS M. TRACY, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF STATE, ACCOMPANIED BY JAMES H. MICHEL, ACTING LEGAL ADVISER, DEPARTMENT OF STATE; AND HAROLD S. BURMAN, ATTORNEY, OFFICE OF THE LEGAL ADVISER, DEPARTMENT OF STATE

Mr. TRACY. Thank you, Mr. Chairman.

Mr. Chairman, may I introduce on my right Mr. James H. Michel, the Acting Legal Adviser of the Department of State, and on my left Mr. Harold Burman, who also represents the Legal Adviser's office. Mr. Chairman, we appreciate the opportunity to appear before you today on behalf of the Secretary of State and to present the views of the administration concerning S. 854.

The proposed Foreign Missions Act is a new direction in the manner in which the United States deals with foreign government missions in our country. It will provide the means to remedy a serious and growing imbalance between treatment accorded to official missions of the United States abroad and that made available to foreign government missions in the United States.

At present, the U.S. Government lacks authority compared to that enjoyed by many other governments to insure reciprocity.

The administration supports this legislation, which would authorize the Secretary of State to regulate activities of foreign missions in the United States.

In an era of increasing world tensions, it is important to our Government to reduce or eliminate arbitrary restraints, harassment, or noncooperation by foreign governments abroad, which often restrict our ability to perform official functions and adversely affect U.S. Government employees.

In an era of declining Federal budgetary resources, arbitrary or unreasonable increases in costs of operating U.S. Government missions abroad, which are imposed by or permitted by foreign governments, greatly burden our missions abroad in the performance of their official functions. In such cases, the ability to place similar restraints on foreign missions in this country will enable the U.S. Government to deal more effectively with such problems

In addition, Mr. Chairman, the substantial Federal interest in providing effective security and locations for foreign mission activities in the United States, as well as the need to obtain comparable treatment abroad, would be enhanced under such legislation. An important link in this process is to strengthen the Federal role in determining acceptable locations for foreign missions within our country, and, most importantly, in the Nation's Capital City.

We believe this legislation carefully balances the need to accommodate the Federal interest with a process that weighs the impact on municipal concerns as well.

Additionally, interests of other Federal agencies involved in insuring that foreign missions activities in the United States remain within appropriate limits should also be enhanced by this proposed legislation.

In many countries abroad, foreign government missions must obtain official services or facilities necessary to operate the mission from or with the approval of the national authorities. This in some cases results in restrictions on the operations of our embassy, imposition of arbitrary costs or other restraints.

Current problems include the unwillingness of foreign authorities to make available proper chancery facilities, staff housing, locally hired staff or other facilities as well as substantial and often arbitrary increases in the cost of operating our missions abroad. Our failure to respond by imposing similar restraints here often has left the United States unable to change the manner in which our interests are served by other governments.

American embassies, for example, in the Soviet Union, Eastern Europe and a number of countries in the Third World with state-directed economies——

The CHAIRMAN. Mr. Tracy, please excuse this interruption. I must ask you to suspend your statement. I am sure you don't mind, but I must take an emergency call from your boss, the Secretary of State.

Mr. TRACY. Certainly, Mr. Chairman.

[A brief recess was taken.]

The CHAIRMAN. I think that interruption was well worthwhile. The Secretary has confirmed that a cease-fire now has been ordered by all parties in the Mideast. While we can surely expect some problems, a cease-fire is a very encouraging sign.

It is a great tribute to your Department, Mr. Tracy.

Please continue.

Mr. TRACY. Thank you, sir.

The CHAIRMAN. I see that the Mayor has arrived.

Mayor Barry, why don't you take a seat at the witness table. We have begun with Mr. Tracy's statement. His testimony will be immediately followed by yours, and then we will ask our questions.

We welcome you here today.

Mayor BARRY. Thank you.

The CHAIRMAN. Mr Tracy.

Mr. TRACY. Mr. Chairman, American embassies, for example, in the Soviet Union, Eastern Europe, and a number of countries in the Third World with state-directed economies, are usually required to deal through so-called service organizations within or directly responsible to the Ministries of Foreign Affairs or other agencies of their governments, for practically all administrative support and services, including chancery facilities, housing, maintenance, utilities, local employees, and travel. These organizations may deny needed facilities or arbitrarily offer inadequate sites, buildings or services, impose substantial surcharges, or require unnecessary or unwanted "services." The total cost to the U.S. Government and its employees amounts to many hundreds of thousands of dollars.

In most cases, the Department lacks authority to impose similar restrictions or conditions on activities of other countries in the United

States. Instead, it can only take more extreme action, such as barring the country concerned from using property it has already occupied or declaring members of that mission persona non grata. These remedies are often too extreme for such situations and may result in unnecessary political escalation.

The legislation would authorize the Secretary of State to approve or regulate the provisions of services or benefits to a foreign mission and its personnel including: the acquisition of property by purchase, lease or construction; public agency services such as customs and utilities; supplies; travel; maintenance and protective services. Such approval or regulation would be applied where necessary by the Secretary of State in order to obtain reciprocity for the United States abroad.

The legislation would establish a new office in the Department to monitor reciprocity and to administer the act. This office will also facilitate greater coordination between other interested Federal agencies, a result consistent with the purposes of this administration.

The U.S. Government has an important international obligation to facilitate the acquisition of property for foreign government chanceries in the District of Columbia under the Vienna Convention on Diplomatic Relations. The Department of State is severely hampered in its efforts to meet this obligation in the Nation's Capital due to the unavailability of suitable chancery sites because of security, costs, and restrictive zoning problems. Of equal importance, there is a growing need for reciprocity involving the substantial security and other problems of U.S. missions overseas.

Under current procedures in the District of Columbia, matters concerning foreign government locations in the Nation's Capital are resolved by municipal authorities without a proper balancing of the significant Federal interest involved.

Section 206 was intended as an effective means, though not the only one which may be possible, of assuring recognition of Federal as well as municipal concerns in the following key points:

One. Criteria for approving foreign mission locations which provide for a proper balancing of important Federal and municipal concerns;

Two. A decisional body which in its composition reflects both Federal and municipal concerns relevant to the issue in section 206;

Three. Procedures which are both expeditious and compatible with the conduct of our Nation's official relations between sovereign countries; and

Four. Availability of lower and medium density mixed-use areas for chancery use: Security and representation requirements result in the need to locate such missions in proximity to each other and in areas of lesser density which already contain mixed institutional and residential uses. Space in higher density commercial office buildings which are not security controlled is not acceptable in most cases.

Taking into account these points, the National Capital Planning Commission [NCPC] was perceived as a reasonable means to accomplish the necessary balance, in view of the substantial city as well as Federal representation on the Commission. In addition, the NCPC already, by law, has responsibility for planning in this area.

The Department would like to assure the committee that we are prepared to continue to explore alternative administrative bodies, as we have already done with city authorities at the request of the chairman of the House District Committee.

In response to a request from the House District Committee, we have discussed with the District of Columbia Government alternative language to section 206 for possible consideration in the House of Representatives. Although these discussions have not yet resulted in an agreement, further consideration of this issue remains possible.

Mr. Chairman, this bill contains declarations of Federal jurisdiction in a matter impacting U.S. interests both here and abroad, and clearly within the foreign affairs powers of the Constitution.

In closing, we believe this bill will send a signal abroad that a different era has begun, one in which the United States will expect reaonable treatment overseas in return for what other governments have sought here.

I would be pleased to answer your questions.

The CHAIRMAN. Thank you very much, Mr. Tracy.

Mayor Barry, we have had the pleasure of your company in other committees in the Senate on which I serve, but to my knowledge, in the 10 years I have been here, we have not had you before the Foreign Relations Committee.

We welcome you.

I want to use this occasion to express appreciation on behalf of the committee to you for the role that you play in welcoming many of our foreign dignitaries who come to this great Capital, and for the deep interest which you always have taken in world affairs. We appreciate your interest very much.

We are proud of the city of which you are mayor. I earlier stated my pride in being a resident of the District of Columbia and my pleasure in working with you.

We are happy to receive your statement now.

STATEMENT OF HON. MARION S. BARRY, JR., MAYOR OF THE DISTRICT OF COLUMBIA, ACCOMPANIED BY JAMES O. GIBSON, ASSISTANT CITY ADMINISTRATOR FOR PLANNING AND DEVELOPMENT; WALTER B. LEWIS, CHAIRMAN, D.C. ZONING COMMISSION; AND STEPHEN SHER, EXECUTIVE DIRECTOR, ZONING SECRETARIAT, D.C. GOVERNMENT

Mayor BARRY. Thank you, Mr. Chairman.

I certainly appreciate your remarks. I would like to indicate that we do see ourselves as three cities, as three entities in one. We are home for over 700,000, including you. We are the Nation's Capital, therefore the home of millions and millions of Americans. We also are the home of over 140 foreign governments. Since I have been mayor, I have appointed a Special Assistant for International Affairs, Ms. Davis, whose job it is to relate to various embassies and ambassadors. A number of ambassadors, when they first get their credentials, come back and pay courtesy calls. In some instances, we have had discussions.

So I feel proud of the fact that we have been able to expand the role

of local government in our international city, in our Nation's Capital, which is our local city.

It gives me great pleasure to appear before you.

I also want to thank you for your strong support for the District of Columbia. Outside of your role as chairman of this distinguished committee, you always have been available to give assistance, when called upon in your official capacity as a Senator or as a citizen, to assist us legislatively or just to give your advice about the subject and being generally helpful.

I want the record to demonstrate the deep personal appreciation that I have.

This morning, I am accompanied by James O. Gibson, to my left, who is the Assistant City Administrator for Planning and Development; Dr. Walter B. Lewis, to Mr. Gibson's left, who is the chairman of the D.C. Zoning Commission. To my right is Mr. Stephen Sher, Executive Director of the Board of Zoning Adjustment and Zoning Commission.

Mr. Chairman, I am pleased to have this opportunity to appear before you today to testify on S. 854. If there are questions that are of a technical nature, I certainly have the appropriate people here who can help answer those questions.

Mr. Chairman, the issue of the location of foreign chanceries and missions in various areas of the city, especially in low density residential neighborhoods, is a particularly sensitive one as it bears on the relationship of the Nation's Capital, as the seat of the Federal Government, and as a residential community.

In this sense, this issue is unique to the District in that the Federal presence is both appropriate and essential to the function of our city. However, the need to balance these important considerations for appropriate accommodations to Federal needs should not cause us to nullify the legitimate concerns of the citizens of the District of Columbia for secure neighborhoods that retain their essential character as residential communities.

Mr. Chairman, the essence of the issue before this committee, in the view of the executive branch of the District government, is whether current practices have so severely impeded the execution of the international responsibilities of the United States that there is sufficient justification to abrogate the Home Rule Charter and to abrogate the opportunity of our citizens for meaningful participation.

The current method for the review of applicants for the location of chanceries is established pursuant to the Zoning Act. The orders are listed in my prepared statement and I will not repeat them. Also, the Chancery Act of 1964 amended the Zoning Act to permit chancery development in residential zone districts in medium high—R–5–C and R–5–D—and high density areas. No chancery development is currently permitted under the act in districts zoned for lesser residential development.

Also, Mr. Chairman, chancery development is also permitted in commercial, C–2–B/B–5, special purpose, SP 1 and 2, and mixed use districts, R and W.

Since the time of the enactment of the Chancery Act, 19 governments have submitted 13 separate zoning applications. All but two cases were heard and decided in a period of from 1 to 11 months. I

will repeat that: all but two cases were heard and decided in a period of 1 to 11 months.

It should be noted that two other cases, which required a longer hearing time—each took approximately 17 months—involved court decisions which required rehearing by the Zoning Commission.

Since the time of the hearings on this subject before the House Committee on the District of Columbia, three chancery applications have been approved: the Philippine, Indonesian, and Singapore Chanceries have been approved by the Board of Zoning Adjustment. In addition, a planned unit development for the French Government currently is pending before the Zoning Commission. A hearing on this issue was conducted on Wednesday of this week with further action to follow.

Mr. Chairman, let me point out very emphatically and very clearly that, in terms of the 19 governments which filed 13 separate zoning applications, only 2 applications—those of the People's Republic of Bangladesh and the Government of Iran—were denied under current practice. Both cases were denied because they exceeded the zoning criteria established to implement the National Capital Planning Commission's foreign missions and international agencies plan element. Again, I think it is significant that only two applications were denied in that time period.

The CHAIRMAN. When was the denial of the Bangladesh request? Do you know about how long ago that was?

Mayor BARRY. It was denied in June 1979, and Iran was denied in September 1979.

The CHAIRMAN. This is one that I have heard a great deal about from some of our mutual friends.

Mayor BARRY. Mr. Chairman, I have heard a lot about that, too, from my residents.

As an aside, let me indicate that the Ambassador of Singapore, in another case, appeared as a resident in a recent case—not as an ambassador but as a citizen who lived in the community—in opposition to certain aspects of a planned unit development application before the Zoning Commission. I understand that this representative happened to be from a foreign government, but he was appearing as a private person, and he indicated for the record that he found the proceedings before this body to be sufficiently suitable for him to voice his concerns as a neighbor.

Likewise, the citizens of the District of Columbia would like to have the same opportunity to express their concerns to representatives of foreign governments in a free and democratic manner.

Mr. Chairman, S. 854, currently before the committee, would repeal the Chancery Act of 1964 and transfer in lieu of zoning authority to the National Capital Planning Commission. Let me also indicate, Mr. Chairman, that the National Capital Planning Commission has gone on record as indicating that it believes the present process is workable.

Since the time of the formulation of the original draft foreign missions plan, the District Government repeatedly has offered to work with the Department of State and solve such outstanding issues regarding location of chanceries. In fact, the commercial areas of Georgetown and upper Wisconsin Avenue, the Southwest employment area, uptown centers, and portions of the Massachusetts Avenue and

the Connecticut Avenue corridors were added, at the city's request, to the area proposed by NCPC for foreign missions and international agencies.

I would add, Mr. Chairman—and this is not in my prepared statement—that I was at the ground-breaking ceremony for the Israeli Government's building in Chancery Square. Everybody is very happy with that arrangement in Van Ness. Again, this is the way that the city and State Department and foreign governments can work very well together.

Mr. Chairman, the city's primary objection to this bill is focused on the implications of this approach for the future of home rule, something which you consistently have supported. It certainly is not clear, or even assured, that increased efficiency or responsiveness will result from the transfer of these functions to NCPC. In general, Mr. Chairman, the NCPC "in lieu of zoning" process can sometimes entail a longer, more complex review than those of the Zoning Commission or the Board of Zoning Adjustment.

An important deficiency in the approach to the problem proposed by S. 854 is the lack of an adequate community involvement mechanism. Although the city government would have an opportunity to present a statement, concerned neighbors would not be afforded any direct access to the decisionmaking process except through subsequent litigation.

Mr. Chairman, I believe very strongly that our community residents should have a right in this process.

A recent analysis conducted by the District of Columbia Office of Planning and Development has examined the average length of time involved in the NCPC review of chancery plans for the International Center Chancery Enclave at Van Ness Street and the time required by the Zoning Commission and the Board of Zoning Adjustment [BZA] to process chancery applications. The average length of time for the review of chancery cases by the Board of Zoning Adjustment is 228 days and for the Zoning Commission is 226 days, while the NCPC review of chancery plans at the International Center is 217 days.

Therefore, even when accounting for the differences in informal versus formal contacts with foreign mission representatives, this analysis indicates that efficiency and timely disposition of cases is not directly related to the participation of neighbors in the hearing process.

In conclusion, Mr. Chairman, S. 854, as presently drafted, is totally unacceptable to the District of Columbia. We believe the Department of State has not made a state.

On the other hand, the District could accept a bill which provides for achievement of primary objectives of diplomatic reciprocity, while not resulting in any loss of development authority by the Zoning Commission and the BZA.

Mr. Chairman, the fundamentally important measures proposed in this bill to assure diplomatic reciprocity do not require the loss of the District's zoning authority.

In reading and listening to the Assistant Secretary's statement, there are a number of issues of reciprocity and pressure that this

Government has put on foreign missions and which they have put on our missions. These certainly could be done through the normal zoning process, in terms of the acquisition of permits and other amenities.

So, we believe that this could be incorporated into our present process.

I would repeat: we believe that the need to have some leverage on other governments, as they have on us abroad, can be achieved with the present process. It is a question of bringing them into the process.

Also, Mr. Chairman, Congressman Dellums, who chairs the House District Committee, had urged that we and the Department of State get together to try to work out some arrangement that would be mutually acceptable to everybody. The group met several times and had a useful exchange of ideas; but there was no agreement that was reached that was acceptable to State or to us.

We think that this, too, would urge the committee not to approve this bill. We hope to find another mechanism for the U.S. Government to deal with the reciprocity issue.

Therefore, Mr. Chairman, we are grateful for this opportunity to appear before you to review this issue. We feel that present procedures have adequately served the Federal and local interests. On the other hand, we are prepared to work with the Congress, the citizens, and the Department of State to further refine procedures and approaches that will insure that both interests, Federal and local interests, are well served. Again, we think that this approach, the present process with a further refinement of what can come before the Zoning Commission or the BZA is workable.

Again, Mr. Chairman, we are delighted to be able to appear on behalf of all the residents of the District of Columbia. We thank you for the opportunity to be here.

[Mayor Barry's prepared statement follows:]

PREPARED STATEMENT OF HON. MARION S. BARRY, JR.

Good morning, Mr. Chairman and members of the Committee. I am Mayor Marion S. Barry, Jr. I am accompanied by James O. Gibson, Assistant City Administrator for Planning and Development, Dr. Walter B. Lewis, Chairman of the D.C. Zoning Commission and Mr. Steven Sher, Executive Director of the Board of Zoning Adjustment and Zoning Commission. I am pleased to have this opportunity to appear before you today to testify on S. 854. First, I would like to thank the Chairman for your decision to hold hearings on this matter of vital importance to the citizens of the District of Columbia.

The issue of the location of foreign chanceries and missions in various areas of the city, especially in low density residential neighborhoods is a particularly sensitive one as it bears on the relationship of the Nation's Capital as the seat of the Federal Government and as a residential community. In that sense, this issue is unique to the District in that the Federal presence is both appropriate and essential to the function of our city. However, the need to balance these important considerations for appropriate accommodations to Federal needs should not cause us to nullify the legitimate concerns of the citizens of the District of Columbia for secure neighborhoods that retain their essential character as residential communities.

The essence of the issue before this Committee, in the view of the Executive Branch of the District Government, is whether current practices have so severely impeded the Execution of the International responsibilities of the United States there is sufficient justification to abrogate the Home Rule Charter and the opportunity of our citizens for meaningful participation

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CURRENT PRACTICE

The current method for the review of applicants for the location of chanceries is established pursuant to the Zoning Act (D.C. Code, Section 5–413 et seq.) and Section 492(e) of the District of Columbia Self Government and Governmental Reorganization Act. Pursuant to Orders 235 and 237 of the Zoning Commission of the District of Columbia, a mixed use Diplomatic District, was created.

Further, the Chancery Act of 1964 (73 Stat. 1091) amended the Zoning Act to permit chancery development in residential zone districts in medium high (R–5–C and R–5–D) and high density areas. No chancery development is currently permitted under the act in districts zoned for lesser residential development. Chancery development is also permitted in commercial (C–2–B/B–5) special purpose (SP 1 & 2) and mixed use districts (R and W). Since entactment of the Chancery Act, 19 governments have submitted 13 separate zoning applications. All but two cases were heard and decided in a period from one to eleven months, It should be noted that two other cases, which required a longer hearing time, (each took approximately seventeen months) involved court decisions which required rehearing by the Zoning Commission.

Since the time of the hearings on this subject before the House Committee on the District of Columbia, three chancery applications have been approved: the Philippine, Indonesian, and Singapore Chanceries have been approved by the Board of Zoning Adjustment (BZA Cases 13361, 13459, and 13457). In addition, a Planned Unit Development (PUD) for the French Government is currently pending before the Zoning Commission. A hearing on this issue was conducted on Wednesday of this week with further action to follow.

In fact, only two applications (The People's Republic of Bangladesh and the Government of Iran) were denied under current practice. Both cases were denied because they exceeded the zoning criteria established to implement the National Capital Planning Commission Foreign Missions and International Agencies Plan Element (Foreign Missions Plan). These applications related to chancery development in low density residential use districts or low density diplomatic/residential use districts.

As an aside, it is interesting to note that Ambassador Punch Coomaraswamy, of Singapore, appeared as a resident in a recent case before the Zoning Commission in a community opposition to certan aspects of a Planned Unit Development (PUD) application before the Zoning Commission. I understand that this representative of a foreign government, while appearing in this capacity as a private person, found the proceedings before this body to be sufficiently suitable for him to voice his concerns as a neighbor. Likewise, the citizens of the District would like to have opportunity to express their concerns to representatives of foreign governments in a free and democratic manner.

S. 854

S. 854, which is currently before the Committee, would repeal the Chancery Act of 1964 and transfer in lieu of zoning authority to the National Capital Planning Commission (NCPC). Since the time of the formulation of the original draft Foreign Missions Plan, the District Government has repeatedly offered to work with the Department of State to resolve outstanding issues regarding location of chanceries. In fact, the commercial areas of Georgetown and upper Wisconsin Avenue, the Southwest employment area, uptown centers, and portions of the Massachusetts Avenue and the Connecticut corridors were added, at the city's request, to the area proposed by NCPC for foreign missions and international agencies.

Therefore, the city's primary objection to this bill is focused on the implications of this approach for the future of Home Rule. It is certainly not clear or assured that increased efficiency or responsiveness will result from the transfer of these functions to NCPC. In general, the NCPC "in lieu of zoning" process can sometimes entail a longer, more complex review than those of the Zoning Commission or Board of Zoning Adjustment.

An important deficiency in the approach to the problem proposed by (S. 854) is the lack of an adequate community involvement mechanism. Although the city government would be afforded an opportunity to present a statement, con-

cerned neighbors would not be afforded any direct access to the decision-making process through subsequent litigation. Our experience in these matters over the years indicates that the District's zoning process provides a more appropriate hearing forum for the disposition of local concerns, and performs in a more timely manner than mere resource to the courts.

A recent analysis conducted by the D.C. Office of Planning and Development has examined the average length of time involved in the NCPC review of chancery plans for the International Center Chancery Enclave at Van Ness Street and Reno Road, N.W. and the time required by the Zoning Commission and the Board of Zoning Adjustment to process chancery applications. A summary of this study is attached to this statement.

The average elapsed time for the review of chancery cases by the Board of Zoning Adjustment is 228 days and for the Zoning Commission is 226 days, while NCPC reviews of chancery plans at the International Center is 217. Therefore, even when accounting for the differences in informal versus formal contacts with foreign mission representatives, this analysis indicates that efficiency and timely disposition of cases is not directly related to the participation of neighbors in the hearings process.

In conclusion S. 854, as presently drafted, is unacceptable to the District of Columbia. The District could accept a bill that provides for achievement of primary objectives of diplomatic reciprocity while not resulting in any loss of development authority by the Zoning Commission and the BZA. The fundamentally important measures proposed in the bill to assure diplomatic reciprocity do not require the loss of the District's zoning authority, acquired over many years through and refined in the Home Rule Act and other Federal/local consultations. The purpose of the bill can be incorporated into the present process.

COMPROMISE

Following the hearing before the House Committee on the District of Columbia at the request of Chairman Dellums, members of my staff under the direction of Mr. Gibson met with representatives of the Department of State, principally Mr. James Michel, Acting Legal Adviser. While the group met several times, had a useful exchange of ideas and mutually concluded that the objectives of the State Department could be met within the Home Rule authorities of the District, certain issues did not allow an acceptable final agreement to be achieved. First, representatives of the Department of State insisted on an in lieu of zoning process which would effectively eliminate standing by D.C. citizens from proceedings resulting in decisions that affect their neighborhoods.

In addition, the State Department representatives insisted on locational criteria not related to zoning categories. Land use regulation in a complex, densely populated community such as Washington is essential to maintaining order and safety. Unless serious jeopardy to national security is involved, potential damage to the delicate fabric of our neighborhoods requires thoughtful lands use and zoning regulation.

Even the National Capital Planning Commission, the official Federal planning body for the Nation's Capital has stated that it does not perceive serious problems in the operation of the District zoning process which provides for the location of foreign missions and international agencies. Therefore, the city's representatives concluded that the State Department proposal would amount to licensing a process that would remove standing by the citizens without a clear justification.

CONCLUSIONS

In conclusion, the Executive Branch of the District of Columbia government is grateful for the opportunity to appear before the Committee today to review these issues of vital importance to our residential communities. While we feel that present procedures have adequately served the Federal and local interests, we remain prepared to work with the Congress, citizens, and the Department of State to further refine procedures and approaches that will ensure that both interests (Federal and local) are well served in this area.

I would be pleased to respond to any questions the Committee might have concerning my testimony. Thank you.

CHANCERY CASES

Caes No. Country	Filed	Decided	Elapsed time	Decision
Board of Zoning Adjustment:				
12268: New Zealand	Aug. 13, 1976	Aug. 18, 1977	370 days	Granted.
12750: Algeria	July 26, 1978	Mar. 26, 1979	243 days	Dismissed.
12822: Banpladesh	Oct. 12, 1978	June 22, 1979	253 days	Denied.
12826: Saudi Arabia	Oct. 24, 1978	Nov. 9, 1979	341 days	Granted.
13166: Italy	Dec. 18, 1979	May 27, 1980	160 days	Do.
13313: Venezuela (Embassy)	June 4, 1980	Oct. 6, 1980	124 days	Do.
13361: Indonesia	Aug. 8, 1980	Feb. 5, 1981	183 days	Do.
Average elapsed time			228 days	
Zoning Commission:				
77-17P: Italy	June 6, 1977	Feb. 9, 1978	248 days	Do.
77-31: Bangladesh	Aug. 29, 1977	Withdrawn		
77-40P: Saudi Arabia	Nov. 16, 1977	Moot		
78/20/76-28F: France	Aug. 25, 1978	Feb. 8, 1979	167 days	Do.
78-29: Iran	Nov. 17, 1978	Sept. 13, 1979	301 days	Denied.
78-30/77-17F: Italy	Dec. 8, 1978	June 14, 1979	188 days	Granted.
Average elapsed time			226 days	

NCPC REVIEW OF CHANCERY PLANS AT THE INTERNATIONAL CENTER

Country	Review request	Info/ concept[1]	Review request	Preliminary site and building plan	Request review	Final site and building plan	Elapsed time (days)[2]
Ghana	Dec. 8, 1975	Jan. 8, 1976	Mar. 9, 1976	Combined		Apr. 18, 1976	123
Israel			Oct. 11, 1978	Nov. 2, 1978	Mar. 14, 1979	Apr. 15, 1979	177
Yemen			Dec. 20, 1978	[3] Jan. 10, 1979	June 27, 1979	Sept. 13, 1979	268
Dahrein			June 5, 1979	[3] June 28, 1979	Sept. 12, 1979	Oct. 4, 1979	122
Kuwait			Sept. 12, 1979	[3] Oct. 11, 1979	Aug. 12, 1979	Oct. 8, 1980	393
Jordan			Oct. 10, 1979	Dec. 13, 1979			

[1] Not a requirement. It is optional.
[2] Average elapsed time, 217 days.
[3] Conditional.

The CHAIRMAN. Thank you very much, Mayor Barry. Before you walked in, I announced that the cease-fire seems to be in place in the Middle East. If we can have a cease-fire in that very complex area, we probably can hope to resolve the differences between the District of Columbia and the State Department regarding this issue.

I certainly will speak directly to the Secretary about some of the concerns that you have expressed to me. As I said before you came in, this bill is not set in concrete and we hope to work it out equitably, taking into account the principle of home rule in which I believe deeply.

A FEDERAL INTEREST

Do you agree that there is a Federal interest in providing suitable locations for foreign missions in the District of Columbia when foreign governments have accommodated U.S. missions abroad?

Mayor BARRY. Mr. Chairman, I don't think there is any question that there is a Federal interest in this matter, in terms of providing suitable locations for foreign missions. We are just pointing out that in terms of the history of the governments that have appeared either before the BZA or the Zoning Commission, this has not impeded the ability of the Federal Government to be of assistance to accommodate these missions.

If the record were others, then I would be the first to say that we need another process. But, as I said earlier, the record does not speak to

that, and absent a clear record as to what is impeding the process and creating the problem, we ought not to tamper with it since it is working.

The CHAIRMAN. How do you feel the Federal interest is protected by the City Zoning Commission?

Mayor BARRY. I would ask Mr. Gibson to respond.

The CHAIRMAN. Mr. Gibson.

Mr. GIBSON. Mr. Chairman, I believe that the Federal interest is protected in a variety of ways. There has been work with the National Capital Planning Commission, which has attempted to quantify the needs of foreign missions into the future. We have, in fact, made provisions within the zoning regulations to accommodate the volume of need that has been identified.

We always have been open to and the decisions of the Zoning Commission and the BZA definitely can be affected by the Department of State. I think part of the issue has been that many of the technical, land-related questions which confront specific locations, and the building needs in specific locations, and the impacts that those buildings, their parking and so forth would have in resident areas are indeed highly technical matters and, in fact, the Department of State's Protocol Office, in a number of instances, has not been able to represent, beyond very general support of the desires of the applicant, what the particular needs are.

We do not feel that the Federal interest has been injured at all. We cannot discern it in the record. The National Capital Planning Commission concurs with us. In an extensive exchange with Department of State representatives, we still feel that there is no injury to the Federal interest now being accomplished.

The difficulties that the Federal Government has is looking at the cost of security and, therefore, the grouping of embassies. We are quite willing to work with them. The general allegation that this somehow can be accomplished or accommodated by removing zoning controls and permitting a change in the character of neighborhoods we do not think is a sequitur. One is not connected to the other.

Mayor BARRY. Mr. Chairman, let me add also that, in terms of selection of where you want to put a chancery, it is not such that you can just decide you want to put it on X street and then go and do it. You have to plan, to purchase the land, and do a lot of others things, which will make it even an difficult from time to time to move into low density areas.

I think we are just talking about one general area of a low density residential neighborhood. That's where the problem is. That's where the Bangladesh problem was and that is where the Iranian problem was.

It seems to me, with the new International Chancery Center, where the State Department is proposing to house up to 24 chanceries, our analysis of the demand market is that it will not greatly exceed that, unless you are going to have a rash of new governments coming into independence. I don't see that any time soon, however.

WILL THE NCPC PROTECT CITY'S INTEREST?

The CHAIRMAN. It would be helpful to the committee in deliberating this matter if you could describe why you believe the National

Capital Planning Commission will not protect the city's interests if the bill does transfer jurisdiction over the location of foreign missions within the District from the City Zoning Commission to the National Capital Planning Commission.

Mr. GIBSON. Mr. Chairman, if I may respond, that goes to the heart of the issue of the zoning process and the standing of citizens in the United States with regard to property issues.

It is not the National Capital Planning Commission which in our view would be injurious to the city. It is the "in lieu of zoning process," which says that you do not do what Ambassador Coomaraswamy did last week in our zoning commission.

He came and said here are some citizens who want to put a development on my street. I don't believe that the way they have it arranged is appropriate because the traffic impaction on my street will be so great that it would be injurious to my residence. And, furthermore, I think there are some alternative ways that they could do what they need to do without injuring me.

It is his capacity to come and state that as the neighbor to that development which would be removed in procedural terms in an "in lieu of zoning process." This is where our problem is.

The CHAIRMAN. The areas primarily affected by the parts of this bill are generally the mixed use institutional and residential areas, such as the Massachusetts Avenue-Embassy Row area.

Because of overriding security concerns, we all know that foreign missions wish to relocate into such areas, and to expand existing sites already in this area, which then gets into a density problem.

PROBLEMS CREATED FOR THE CITY

Would you explain the problems created for the city by the wish of foreign missions to relocate or expand existing facilities in the Massachusetts Avenue-Embassy Row area?

Mr. GIBSON. If I may, Mr. Chairman, I would use the two examples of the denial.

In the case of Iran, it was not a question of their not being able to expand on the site which they possessed. It was an issue of not being willing to permit them to do it as they requested. They wanted to expand a use into a piece of their property which was deep back into the property, away from the Massachusetts Avenue concentration and adjacent to two private homes. This would bring a level of impact—glare from lights and intensity in terms of activity—way behind, or north of Massachusetts Avenue, as opposed to putting their expansion tightly into the front part of the property, where the presence primarily was located. That was the basic difference with Iran.

It was not a denial to intensify the use, but concern that the proposal, while it would be less expensive to Iran, would, in fact, change the character of the neighborhood behind the Embassy.

In the case of Bangladesh, on the other hand, this is a country which has a small facility, which it purchased when its activities in the Nation's Capital were not very great. It is in a row house type configuration—very tight, nearly a row house configuration. There is no opportunity to expand the facility. There are no grounds to accommodate the expansion.

So, they wanted to intensify the numbers of people in that building, enlarging the traffic implications, with no capacity to handle the parking. So, there are residences adjacent, and what you would have is office intensity and absolutely no capacity to accommodate it physically.

It was reluctantly that we said we did not see how they could balance those factors.

The CHAIRMAN. As I have mentioned before—and I see some distinguished ambassadors represented in the room—that is the expansion that has been brought most forcefully to my own attention by some of our most responsible citizens. They are civic minded in every respect, and internationally minded in every respect. They do feel that the impact on their immediate community would be quite intensive.

Mayor BARRY. The chairman asked a question about other areas of the city. We don't know all of the plans of the Department of State for the International Chancery Center. As I said earlier, that is an ideal situation and we all like it. We love it, in terms of that tract of land. In fact, right across the street from that location, on the north side is the University of the District of Columbia. We would love to be able to propose to GSA that we take that land from Connecticut back down to Reno Road. That is 12 acres that has been asked for by the State Department for additional chanceries. We think that is an ideal direction to go. Parking can be had there and Reno Road is accessible. Connecticut Avenue already is a heavily traveled area.

That is one example of how we work together, and we would love to work together with the Department of State on this.

The Department has a bill in the Congress asking for the transfer of that land to be used for that purpose. We would forward our comments and endorse that additional 12 acres on the north side of Van Ness, even though, from the city point of view, it would be desirable to try to get that land transferred or sold to the city so that we could expand our university, which is now spending $8 million or $9 million a year on rental property.

This is how serious we are about this relationship. We are willing to forego our own local desires in this area for peace and for togetherness here.

The State Department has not demonstrated to us yet that if they were to expand the International Center to the north side of the street, that there is more of a need than we are talking about: that those chanceries who wanted to relocate physically could do that. We may have a problem with those who want to expand. But the security there is a perfect situation. They would be all together for the uniformed division of the Secret Service to be there and take care of any activities that may go on that may injure people in the building.

THE VAN NESS LOCATION

The CHAIRMAN. Would you tell the committee if the Van Ness location is completely occupied and if, beyond those that you mentioned, there are any other areas of the city where we would have adequate security and facilities to accommodate foreign missions.

Mayor BARRY. Mr. Chairman, we have encouraged the mapping and looking at large tracts of land in the city, and on an individual basis

we sit down to see whether or not the city could participate in working out the situation.

As you know, we are land-locked, and there is not a lot of fallow land around.

Again, the situation does not demonstrate that that is going to be a very serious problem in the very near future.

Mr. GIBSON. Mr. Chairman, I think we have come to the very heart of the matter. The capacity to plan with the State Department is very real. The State Department has not provided a perspective with regard to security-related strategies to which we can respond and provide land-strategy options.

We are aware that you need a concentration in order to keep the cost of security efficient. We are prepared to work with the State Department in accomplishing that. We feel that this has to be done. What is being requested here, in essence, suggests that the Massachusetts Avenue corridor, which is a very attractive and traditional location for chanceries, also is a residential community. This is one of the things that gives it its character.

The fundamental meaning here is that expansions of the office needs related to chanceries should override the character of that community. It gradually changes the very neighborhood in the Massachusetts Avenue area and in the Kalorama Avenue area so that these become less residential areas and more de facto enclaves of chanceries. This is not desirable.

There are alternatives to that approach.

Mayor BARRY. Finally, in that area, we make a very clear distinction between embassies and chanceries. We have not had any difficulties in terms of embassies. They are part of a number of neighborhoods. The neighbors love them and they love their neighbors. Those are not the problem.

The problem is the office buildings. This is what chanceries are. They are office buildings where people work. They don't live there, except perhaps in rare situations.

We do want to make that distinction really clear.

We want the chanceries in the District of Columbia, but we think the present mechanism is adequate, with some refinement, to do that. We think it can be done with that refinement.

The CHAIRMAN. If it is going to be possible to find some middle ground here, that certainly will be desirable. I will put that challenge to the Department of State, to Mr. Tracy and the questions we put to him.

We certainly do understand your concerns. Senator Mathias serves on this committee. I will consult closely with him. He is devoted, as are other members of the committee, to the District. Many of us live in the District. We really respect home rule and do not want to undermine it. But we also have a great responsibility to foreign missions. We expect them to be accommodating to us in their countries, and we want to be as accommodating as we can here.

ROOM FOR COMPROMISE

So the question is "Is there room for compromise?" Could we create a District Commission composed of elements of both the City Zoning

Commission and the National Capital Planning Commission to decide on the location of foreign missions? That would be a midway point. Is that a possibility worth exploring?

Mayor BARRY. Mr. Chairman, we have explored that.

Because of the evidence, and because the Department of State has not even begun to substantiate its claim that it needs relief, we could not support that. The city could not.

On the other hand, if you want to talk about the lesser of two evils, then this would be the lesser of two evils. The Senate bill that is before you is the worse evil, and we have to look at another evil as lesser, so we would say that that type of compromise would be the lesser of two evils.

The CHAIRMAN. Oh, I could even think of something worse. Let the Congress control it. [General laughter.]

Mayor BARRY. We don't want to do that either. We saw what happended to the District while the Congress had more control than it has now. [General laughter.]

The CHAIRMAN I want to thank you very much for your presence. We appreciate Mr. Gibson being with us, and Dr. Lewis and Mr. Sher. We certainly will seriously consider your views as we mark up this legislation. We have benefited by your appearance here today.

Thank you very much, Mayor Barry.

Mayor BARRY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Tracy, we have heard your testimony. Let me ask if you are under any time problem? Would you prefer for us to complete our questions of you before we proceed?

Chairman Dixon is here and perhaps it would be helpful if you were to also hear his views.

Mr. TRACY. That certainly would be fine, Mr. Chairman.

The CHAIRMAN. Good.

Why dont you stay at the witness table.

Chairman Dixon, won't you take a chair at the witness table. I think it would be well for the Department to hear your views. We are delighted to have you here.

I think the number of questions that I have of you is somewhat limited. I have far more questions for the Department of State.

Why don't you give your testimony at this time. We welcome you very much to the committee. I will have only a few questions of you after you complete your testimony.

STATEMENT OF HON. ARRINGTON L. DIXON, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA, ACCOMPANIED BY CAROL RICHARDS, SPECIAL ASSISTANT TO CHAIRMAN DIXON

Mr. DIXON. Thank you very much, Mr. Chairman. I apologize for my timing. We were downtown, fighting an initiative to take money from the public schools of the citizens of the District. I am in charge of a group called SOC to stop that effort. I apologize for being late.

Mr. Chairman and members of the Foreign Relations Committee, I appreciate the opportunity to testify before you on S. 854, and am particularly gratified at the sensitivity that you and your staff have displayed in providing a forum for the District of Columbia officials to make our sentiments known on this issue.

Appearing with me is Carol Richards, my special assistant, who serves as my alternate on the National Capital Planning Commission.

The purpose of this bill is to address the imbalance between the treatment accorded in many countries to the official missions of the United States abroad, and that treatment made available to foreign government missions in the United States.

The bill gives the Department of State authority comparable to those of many other governments to enforce reciprocity in an appropriate manner.

As a citizen of the United States, I support the basic goal of this bill as they relate to the orderly conduct of our foreign policy. As an elected official of the District of Columbia, however, I am opposed to those sections of the bill that would unnecessarily abridge the rights of the 637,000 citizens of the District of Columbia to have their interests protected under the mechanisms established under home rule.

Certainly, we in this city are aware that there are vital questions of national security and reciprocity that the Federal Government must consider. I do not believe, however, that these questions are answered by a repeal of the Chancery Act of 1964. There is nothing about reciprocity, as I understand it, that mandates the location of such facilities in a manner that could potentially disrupt the lives of the residents of the District of Columbia.

As you know, the location of chanceries is a problem that has elicited strong concern on the part of District citizens because it goes to the heart of what they care about most: their homes and their neighborhoods. Foreign missions can impact on property values, they can increase traffic congestion in a neighborhood, and this is why their location has become such a delicate matter.

It is a well accepted axiom that zoning authority belongs with the governmental body that is closest to the people, and the case of chanceries I believe is not an exception.

I also speak as a member of the National Capital Planning Commission, the body which, under section 206 of this bill, would be granted authority in lieu of zoning to decide where a chancery may locate, using criteria outlined in the bill.

This transfer of authority from the Zoning Commission and the Board of Zoning Adjustment would be a serious breach of home rule to the District.

While it is true that the National Capital Planning Commission does include representatives of the District, its purpose is to represent the Federal interest in the planning and development of the District. Its processes do not involve formal hearings nor do they formally—nor should they—take into consideration concerns about neighborhood impacts. These decisions are best left to local bodies who are accountable to their constituents and who are, I believe, fully sensitive to the pressures of national concerns.

Last month, the National Capital Planning Commission itself overwhelmingly approved a resolution that stated that it had not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions and international agencies.

The Commission's policy on the location of these missions is contained in the Foreign Mission and International Agencies Plan for the

National Capital, which was adopted in 1977. This plan has been implemented through the local zoning process.

As I have stated, I do not believe that there has been sufficient evidence presented to show that the current process should be changed.

Since the Chancery Act of 1964, only two chancery cases have taken more than 11 months to be heard and decided, and this is because of court decisions that required rehearing by the Zoning Commission. The courts decided that this would be required.

Only two applications were denied, and this was because they exceeded zoning criteria established to carry out the NCPC foreign missions and internal plan element.

In summary, I am opposed to S. 854 because it takes away from the District an important right to decide a matter that affects our citizens. I know I speak for the rest of the government to say that we are willing to work with the State Department, as we have tried to do in the past, to work out any problems that they feel exist.

Thank you very much.

The CHAIRMAN. Thank you very much, Chairman Dixon. Your last statement, that you want to work with the Department, is an encouraging one.

Given the fact that the chancery issue already has resulted in congressional resolutions of disapproval, and in light of your desire to enhance home rule, would it not be in the best interests of the District of Columbia to find an equitable resolution of your zoning problem?

Mr. DIXON. I think the answer is yes. But, Senator Percy, as I have indicated in my statement, we have seen no evidence that the process we now have is not meeting properly that need.

CITY REGULATIONS MORE RESTRICTIVE ON CHANCERIES

The CHAIRMAN. In a number of specific zones in the District of Columbia, are not city regulations more restrictive on chanceries than on other institutional or commercial users?

Mr. DIXON. My view is that there is an appropriate balance reflected in those regulations and also a willingness by the Zoning Commission, as indicated by our previous actions, to be flexible in considering the location of chanceries. There are only a few discreet examples, not related to the zoning process, in fact, that have been stopped in the past.

The CHAIRMAN. Again, are they really much more restrictive on chanceries than on other uses of property?

Mr. DIXON. It is not my belief that that is true. If it is, then, as I said, I think the Commission has been receptive in hearing and considering location of chanceries. I believe the record reflects that, sir.

The CHAIRMAN. The position of the Department is very clear, as is that of the national security agencies, that there are three conditions that must be met for the location of chanceries. First, they must be in separate facilities for sovereign representation. Second, they must be in proximity to each other for Federal security. Third, they cannot be in large office buildings because of the security risks.

ANY POSSIBLE ALTERNATIVES

So, Mr. Chairman, can you think of any alternatives, with your creative, imaginative mind, which every day balances out issues such

as public schools and other pressing problems, for foreign missions, taking into account these three standards that must be met by the State Department?

Mr. DIXON. Senator, with that flattering lead-in, I am enticed to want to come up with a compromise.

But I think it would be inappropriate to recommend a compromise when, in fact, as I see it, there is still no indication that the present process is not working. We have not been shown that at NCPC. We have not been shown that at the local level, within the local government. I am not sure where the need is, or why the need is, even though recommendations are being made to change. I am not sure why those changes are needed. It is not yet clear to me.

The CHAIRMAN. Thank you very much. I have no further questions.

There may be questions from other members of the committee for both you and Mayor Barry. We will keep the record open long enough for those and will advise you, very promptly, if there are additional questions.

Let me say that you are welcome to remain to hear Mr. Tracy's testimony. Of course, if there are other matters which require your presence, you may leave at this time.

I will have to recess this hearing for 5 minutes. There is a rollcall vote on now and this probably is the best time for me to cast my vote.

We will be back shortly.

[A brief recess was taken.]

The CHAIRMAN. Mr. Tracy, first I would like to take into account some of the concerns that have been expressed about the inequitable treatment of the U.S. missions abroad.

As I said in my opening statement, there does seem to be a serious imbalance between the treatment accorded by many countries to official missions of the United States and that accorded to foreign government missions in the United States. In an increasing number of countries, the United States is denied suitable locations for U.S. missions; denied the opportunity to purchase staff housing; required to deal with service organizations for all administrative support and services; and victimized by discriminatory foreign import and tax policies which cost the taxpayers of this country millions of dollars.

COUNTRIES WITH DISCRIMINATORY POLICIES

Would you provide for the record a list of those countries which have discriminatory policies with respect to the treatment of U.S. missions or diplomats abroad?

We will keep the record open so that you can supplement the list and make it complete.

Mr. TRACY. Yes, Mr. Chairman. We would be glad to provide you a list of the countries with which we have problems or difficulties.

I could enumerate some now, but in public testimony, I would prefer not to name the individual countries. Let me give you some examples, however.

In an African country, our Ambassador's residence has been expropriated. In an East Asian country, the title to the land and buildings that we have owned for many years has been expropriated and now we are being charged what amounts to ground rent or leasing costs.

We have considerable difficulties in dealing with the state-directed economies because, in effect, the government orders its agencies to charge us whatever it wants. On the other hand, in the United States, where we have a free market economy, the embassies of those countries can buy whatever they want at a reasonable price.

Some additional examples include an Eastern European country which charges us 25 percent for services that we may or may not want, while it charges other countries 10 percent.

What is most serious in terms of the cost to the U.S. Government and difficulties in staffing our posts, we are frequently denied long-term leasing rights or the ability to purchase land. In many countries, we have to lease only on a year-to-year or a 2-year basis. We have to put a good deal of improvements into those buildings and then, at the end of the 2- or 3-year period, we may be asked to leave the buildings and will not be compensated for those improvements. Such recurring expenditures of tax revenue have an immediate and direct impact on the U.S. taxpayer.

[The information referred to follows:]

DISCRIMINATORY POLICIES OF U.S. MISSIONS OR DIPLOMATS ABROAD

[SUBMITTED BY THE DEPARTMENT OF STATE]

In his introduction of S. 854, Senator Percy identified some of the imbalances in treatment which exist today. These imbalances affect not only cost, but security, staff morale, and the ability to carry out proper functions of American embassies. To briefly reiterate, for example, real property issues faced abroad by the USG include:

In the Soviet Union, Eastern European countries and in a number of third-world countries, the United States may be denied access to necessary facilities, or may be prohibited from purchasing or acquiring long-term rights to office and residential properties, forced to negotiate short-term leases and in many cases must deal through government-controlled sources which limit availability, charge excessive fees, and limit the effectiveness of the operation of our missions. (Adequate security and communication facilities, for example, often cannot be placed in short-term properties.) In the United States, these same countries can own their official and residential properties, or acquire whatever they determine is necessary for their operational and security needs. (An exception has been location of facilities for the U.S.S.R., which has been subject to greater control by the USG, but even in that instance a wide disparity exists.)

In many countries, even where we may own or have long-term leases for chancery use and the Ambassador's residence, acquisition of necessary additional office and staff residential property may be prohibited or simply not made available, or provided only at excessive costs. This imposes substantial difficulties on the operation of the mission and results in the United States having to restrict otherwise authorized activities or avoid sending necessary staff to the post or bearing excessive costs for short-term leases. Guyana, Venezuela, Kuwait, Bahrain, the United Arab Emirates and other countries in the Near East and Africa are some examples where restricted availability applies.

Expropriation of U.S. property overseas or withdrawal of prior acquired USG rights, without compensation, has occurred. Indonesia, Algeria and the Congo are current examples. The actions following expropriation have varied: Indonesia withdrew U.S. titles to our properties and is now insisting on U.S. payment for leases on our own property. Algeria expropriated U.S. land, has never provided compensation, and has limited the United States to short-term leases. In both instances the ground rents charged are considerable. Recent attempts by the Congo to expropriate our Ambassador's residence remains unresolved. These countries at the same time remain free to buy, lease and sell in the United States.

The Department has recently restricted the Algerian Government from relocating its chancery until a resolution of U.S. problems in Algiers is achieved. This action, however, is based on very tenuous authority which the proposed legislation is expected to cure.

In other cases, such as Libya, damages may be inflicted on U.S. premises, compensation or corrective actions may be refused, and the Department lacks authority to impose cost restraints in the United States.

Arbitrary inequities in application of taxation and importation rights and other factors affecting cost of operating overseas missions are other areas wherein the U.S. Government may seek reciprocal treatment. For example, in Chile, Malta, and Yugoslavia, the Embassy is not exempt from payment of petroleum taxes. Many countries, Guyana and Ghana being the most recent examples, afford reimbursement of taxes and duty paid, yet the reimbursement process is difficult and effectively defeats the process. The diplomatic representatives and official facilities of these countries are fully exempt from such taxes in the United States.

Special forms of direct taxation—transaction and value added taxes and ground rent fees—are imposed on USG facilities and often on major U.S. construction programs in India, France, Mexico and Portugal to name a few. The Department has considered these taxes to be inconsistent with multilateral treaty rights; it is expected that the new legislative provisions may provide the leverage to achieve renegotiation on these issues.

Though already utilized by the Soviet Union and other East bloc countries, the requirement of the U.S. missions and personnel to use "hard" currency instead of local currency, for official and staff costs, usually at arbitrary rates of exchange which are almost confiscatory in nature, has begun to spread to other countries. The most recent examples are Ghana and Tanzania. This effort to supplement that country's economy through manipulation of hard currency and exchange rates is extremely costly to the U.S. Government.

The problems and costs associated with forced dealings with "Diplomatic Service Bureaus" is well known. Our Embassies in the Soviet Union, East European and other countries with state-directed economies are required to deal through service organizations within the Ministries of Foreign Affairs for practically all administrative support and services, i.e., housing, maintenance, utilities, local staff employees, travel, et cetera. These organizations may arbitrarily deny access to necessary staff or facilities, charge unreasonable costs, or impose a substantial surcharge for often unnecessary or unwanted "services". The most recent example has been Hungary where the "service" charge increased from 10 percent to 25 percent.

DIPLOMATIC SERVICE BUREAUS

The CHAIRMAN. Can you tell us how many countries do have Diplomatic Service Bureaus and actually require U.S. missions and personnel to transact business through those Bureaus?

Mr. TRACY. I will supply a complete list for the record.

[The information referred to follows:]

COUNTRIES HAVING DIPLOMATIC SERVICE BUREAUS

[SUBMITTED BY THE DEPARTMENT OF STATE]

The "Diplomatic Service Bureaus" (DSB's) are generally either directly controlled by or linked to the foreign ministry. Where the DSB exists, foreign missions may be required to deal directly with, or at a minimum through, the Bureau for all services and support needs, although exceptions may exist for politically aligned countries.

The major functions controlled by the DSB often include, but may not be limited to:

Housing: Availability;[1] selection; maintenance or alteration; utilities.

Personnel: Availability;[1] selection; payrolling.

Procurement: Availability;[1] supplies and materials; auto procurement and repairs; medical services.

Right to travel: Availability;[1] requirements; cost; security control.

U.S.S.R.—UPDK (Moscow), UPIP (Leningrad), and UPKK (Kiev, where we opened a consulate in 1977–79). Each of these DSB's provides and controls the full range of services—housing, personnel, procurement, and travel.

Bulgaria (BODK), Romania (ODCD), Hungary (DSD), and the German Democratic Republic (DSB) are modeled after the Soviet UPDK and provide and control essentially the same services.

[1] Availability in each category translates in practice as a license to deny.

Czechoslovakia—The Bureau of Diplomatic Services recommends employees but diplomats may recruit from other sources, provided that the Bureau approves the choice (which provides security and intelligence control). The Bureau provides a full range of services but is not as rigid as previously-mentioned organizations.

Poland—No Diplomatic Service Bureau as such. Housing is controlled by PUMA, the Polish Administrative Housing Administration, which handles all matters relating to housing for foreign missions. Local employees are recruited from the local labor market.

Cuba—The CUBALSE provides and controls the full range of services for all Diplomatic Missions in Havana, and operates under the Cuban Ministry of Foreign Relations.

China—The Beijing DSB, as a division of the municipal government, acts as landlord and employment bureau for all foreign missions.

Other countries—Indirect control through foreign ministry offices. A number of countries, often in the third world, do not establish direct Diplomatic Service Bureaus, but require local property owners or suppliers to "clear" services proposed to be made available to certain foreign missions, in order to effect their own national security or policy concerns.

Mr. TRACY. Let me say that there are about a dozen countries which require them: virtually all of the Eastern European countries, the Soviet Union, China, Cuba, and, in a lesser degree, some Third World countries where we are required to use other government offices for certain services. It is not completely black and white, but is sort of a continuum or a spectrum. State-directed economies in particular are the most serious problem.

WHAT DISCRIMINATORY PRACTICES COST UNITED STATES

The CHAIRMAN. Do you have any idea what these discriminatory practices cost the United States annually?

Mr. TRACY. It must run into millions of dollars. It is difficult to quantify. I might add, also, that it costs our employees as well. In some cases they must be compensated by us.

The fact is that we often have to put in security improvements, such as emergency lighting or grillwork on windows and so on into our embassies and residences. Then, after a short period of time, we may not be able to renew the lease and will have to leave. Almost always we do not get any compensation for the improvements that we put into that property.

This is a very serious problem. It means that we have to keep reinvesting money for very short-term periods.

The CHAIRMAN. One of the arguments in favor of the bill is that countries imposing unreasonable restraints and costs on U.S. missions will have to take into account the potential effect on their activities in the United States.

LEVERAGE NECESSARY TO OBTAIN RECIPROCAL TREATMENT

Would you indicate how this bill would give the Department the leverage necessary to obtain reciprocal treatment abroad?

Mr. TRACY. I believe, that if a country will not allow us to buy or acquire long-term rights to property, then we should deny that country those rights in the United States. We should first try to negotiate an agreement though, so that we can reach compromise. Under ideal circumstances the best solution would be a compromise in which that country grants us the same rights we are willing to grant here. But, if that

is not possible, then at least we should deny them the rights that they are denying us.

But that is not possible today. The Department of State does not have the authority to do that, Mr. Chairman.

The CHAIRMAN. Some concern has been expressed about the bill. Will all foreign missions be required to go through the proposed U.S. Office of Foreign Missions for services and benefits that they seek?

Would you comment on that?

Mr. TRACY. Sir, we have no intention of doing that. The only requirement in the law that I think applies to all foreign missions is the requirement that they must notify the Secretary of State 60 days in advance of their intent to open up an office or a consulate in another city. That, in fact, is normal diplomatic practice, but it never has been codified. The act will do that.

Otherwise, our intent will be only to use the legislation for those countries which fail to accord us the same rights that we accord them.

I might say that the very fact that this legislation has been introduced into the Congress has allowed us to reach a number of agreements with Eastern European countries regarding property rights. The very fact that it is being introduced into the Congress has been helpful.

I think, if this act passes, that we will see a great deal of improvement in the situation.

The CHAIRMAN. That, then, would be the sole criteria for granting or denying benefits to foreign missions?

Mr. TRACY. Yes—reciprocity.

CONTROL BY THE PROPOSED U.S. OFFICE OF FOREIGN MISSIONS

The CHAIRMAN. What activities of those foreign missions and their personnel can we actually control, and do we actually intend to control by the proposed U.S. Office of Foreign Missions?

Mr. TRACY. Potentially—and, again, based upon reciprocity and national security considerations—we would tend to exercise controls over the purchase or the lease and exchange of real property, construction of facilities, importation and customs operations, payments of utilities, and the processing of applications or requests for public services.

I might say, for example, that in some Eastern European countries, special surcharges are placed on our utility costs for no other reason than the fact that we are a foreign mission. Also, regarding supplies, maintenance, transportation, locally hired staff, travel and related services, and protective services, regarding all of those the act potentially would allow the Secretary of State to regulate, but, again, based upon reciprocity and national security considerations.

The CHAIRMAN. How can the Director of the proposed U.S. Office of Foreign Missions utilize the surcharge and fee authority granted by this legislation to obtain reciprocal treatment abroad? What kind of leverage would it give to him?

Mr. TRACY. An example might be the Eastern European country which currently is charging us 25 percent for certain services that we get from that country. If we in turn could not negotiate a decrease in those charges, we would impose the same charges here for similar services.

The CHAIRMAN. Certainly, the high costs that we have experienced are one of our objectives. This fits right into the Reagan economic recovery program, you might say, to try to squeeze every unnecessary cost we can out of Government. Certainly, this is an exhorbitant cost.

This bill should provide a restraint on increasing overseas costs of operations of U.S. missions. It is anticipated that the cost of operating the proposed office may be covered by fiscal year 1983 from nonappropriated funds received from services performed.

Will this bill in any way reduce the increasing costs of overseas operations of U.S. missions?

Mr. TRACY. Yes, sir. We are confident that, particularly in the real estate area, where we either buy or lease long-term property, there will be substantial and very significant savings.

ESTIMATED COST TO OPERATE U.S. OFFICE OF FOREIGN MISSIONS

The CHAIRMAN. Do you have any estimates of what the costs will be to operate the proposed U.S. Office of Foreign Missions?

Mr. TRACY. We have estimated for fiscal year 1982 the startup costs, and it is an estimate of about $860,000.

The CHAIRMAN. How much of the operating costs of this new office will be covered by the nonappropriated funds received from the services performed for foreign missions?

Mr. TRACY. We believe, after the initial startup costs, that by fiscal year 1983 there is a substantial chance that most of the costs will be covered.

The CHAIRMAN. What effect, if any, will the creation of this new office have on the staff morale of the foreign affairs agencies?

Mr. TRACY. I think it will be a very significant boost.

Mr. Chairman, I spent 3 years in the Soviet Union. I can assure you that, when you are on the receiving end of some of these problems, the fact that we might have some leverage as a result of this legislation is a major factor in improving the morale of our people serving abroad.

CONFLICT WITH DISTRICT AUTHORITIES

The CHAIRMAN. I would like to concentrate now on the conflict with District authorities to see what can be done to resolve that problem. The conflict between Federal and District jurisdictions concerning locations of foreign missions has continued since 1978, creating a negative impact on the Federal interest. Notwithstanding the clear expression of congressional concern about the nonresponsiveness of the District Government on this issue, it should be assumed that the city will continue to oppose the Federal interest.

The District Government attempted to abolish a Federal plan for chancery locations adopted by the National Capital Planning Commission and effectively preclude new locations or expansion of existing locations for foreign mission chanceries except in areas considered unacceptable for security reasons—consequently, Congress adopted in December 1979, concurrent resolutions of disapproval of the city action [S. Con. Res. 63 and H. Con. Res. 228].

The NCPC had adopted the Federal plan pursuant to statutory authority, setting forth areas for chanceries to be located. The City Zon-

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ing Commission required by the Home Rule Act to implement the Federal plan issued regulations which would have undermined the Federal plan. The action of the Zoning Commission prompted the congressional resolutions of disapproval.

The City Council does not view the Federal interests in providing reasonable areas for locations of foreign missions as part of its responsibility. The Council does have a different constituency and a different responsibility and recognizes that. A legislative solution appears to be the only means to resolve this issue without a long delay in time and further erosion of the Federal interest.

CONTROLLED BY LOCAL OR MUNICIPAL GOVERNMENTS

Is there any country in the world which allows the location of foreign missions to be controlled by local or municipal governments?

Mr. TRACY. We are not aware of any. Somewhere there may be some country that does. But the vast majority explicitly by statute require that embassies deal with the national authorities concerned. Of course, in some of the State-directed economies, it may not be statute, but it is by fiat and by the control that they exercise.

So I could not say categorically no country in the world, but we are not aware of any.

The CHAIRMAN. Would you identify the important Federal and municipal interests of locating foreign missions within the District of Columbia.

Mr. TRACY. If I may, I will ask my colleagues from the Legal Adviser's Office to respond to that question.

Mr. BURMAN. Mr. Chairman, the important Federal interests to be served are the proper accommodation of foreign missions pursuant to our treaty obligations in a manner which allows them suitable representational facilities as sovereign nations—which I might add is of equal importance to us overseas—and also facilities that are within areas in which we have proper security control.

The important municipal interests are the preservation of a balance in each particular area of the city, of an appropriate mix of residential amenities, of commercial and of institutional uses. These are difficult issues to balance in any developed city.

I think that is a very brief statement of both the Federal and municipal interests.

I might add, from the Federal perspective, that what is of critical importance to the Department of State and to the other agencies with which we must work on these matters is to have an issue which is of major Federal importance to us, resolved in a process which recognizes Federal issues and which is resolved by people who are responsive both to the Federal as well as the municipal concerns.

The CHAIRMAN. In addition to the brief history that I gave of the dispute with the District of Columbia, are there any other factors which you would like to add at this time? Is there anything you would like to put into the record? If so, we will keep the record open for that purpose.

Is there something that should be brought out now?

Mr. MICHEL. Mr. Chairman, there is one aspect of this that I think could be further developed in the record.

TWO DISAPPROVALS BY THE ZONING COMMISSION

I believe Mayor Barry referred to 17 cases. There were only two disapprovals by the Zoning Commission under the existing procedures. Those statistics go back to 1964, to the enactment of the Chancery Act. The real problem has begun since the more restrictive regulations were adopted by the city in 1978. The initial cases that were taken up under those regulations that have been alluded to were decided adversely to the applicant foreign governments. So, the Government of Bangladesh was told that a property on "Embassy Row" was not a proper place to have a chancery, although when the Government of Bangladesh looked around, it saw a lot of flags up and down the street and there were a lot of chanceries there. Yet the Zoning Commission said that it was not a place for the Bangladesh Government to have one.

The Iran case that was referred to was a case involving a proposed additional use of an existing compound on Massachusetts Avenue. That proposed use was denied. There also was a third case which ultimately was withdrawn from administrative proceedings by the foreign government.

I think the statistics since 1964 might suggest that everything is going along all right; but the more recent experience has not been so good.

We have not viewed the proposal in this legislation, to have the National Capital Planning Commission act on those cases, as an intrusion or an erosion of the home rule principle. From our perspective, we have thought that the National Capital Planning Commission has municipal representation and, in addition, it already decides the location of Federal buildings in the District of Columbia. There just are not that many chanceries here. I think 140 countries are represented, and many are in locations which are pretty permanent and will not be moved. So, the number of cases that would be taken away from the Zoning Commission we think is rather slight, and the substitute procedures would be balanced by the fact that there is municipal representation on this Commission.

We think we have made a case that there is a need for some modification to current procedures. It appears that the city cannot accept that need. We believe that it is necessary for the Congress, in the exercise of its continuing constitutional responsibilities for the District to make a judgment as to whether these Federal interests of foreign policy and national security and the municipal interests that were referred to by Mr. Burman warrant some change to provide for a better balance of how the United States should deal with foreign embassies.

TRANSFER OF JURISDICTION

The CHAIRMAN. Why do you feel it necessary to transfer the jurisdiction over the location of foreign missions to the National Capital Planning Commission from the city Zoning Commission?

Mr. MICHEL. First of all, the National Capital Planning Commission was already there. It seemed easier to look to an existing body rather than to create a new one. It had the jurisdiction with respect to Federal buildings and it has the responsibility for taking into account

the Federal interests in a way that we did not think was being done by the Zoning Commission. So, it seemed a logical and efficient way to achieve the objective of getting more balance into the process.

The CHAIRMAN. In both the testimony of the mayor and Chairman Dixon, they seemed to indicate their belief that there is no real problem with the city's zoning process. Do you agree with their assessment of the zoning situation? Are the zoning regulations more restrictive on chanceries than on other institutional or commercial users?

Mr. MICHEL. Mr. Chairman, the zoning regulations are more restrictive for chanceries in that they require special exception procedures in certain zones where other nonresidential uses are permitted as a matter of right. There are areas in the District of Columbia which, under the zoning regulations, may be occupied by a bowling alley, a drive-in restaurant, or other relatively high-traffic use, as a matter of right, and in these same areas a chancery is not permitted except by special exception, which is the most arduous burden for any applicant.

So, we believe the regulations do disadvantage to the chanceries. We believe that the relatively few cases since those new restrictive regulations have been adopted demonstrate the need for some change in that process.

The CHAIRMAN. I would put to you now the same question that I put to city officials.

Is there room for compromise on this issue? Could we create a city commission with elements from both the NCPC and the City Zoning Commission?

Mr. MICHEL. As Mayor Barry testified, we did discuss that kind of possibility with representatives of the city government. The State Department certainly is open to a solution that would be more readily acceptable to the District of Columbia.

Our objectives are to have balanced criteria, prompt decisions by a single balanced decisionmaking body, with prompt and reasonable procedures. We do not mean to exclude public participation, and we do not object necessarily to a District of Columbia agency rather than an agency that is designated as a Federal agency.

The ability to obtain agreement, however, seems slight at this point.

PROTECT THE INTERESTS OF THE CITY AND ITS CITIZENS

The CHAIRMAN. With the State Department naturally walking in the shoes of many other countries to try to see the world through their eyes and to be certain that American policy, particularly with friends and allies, is not totally contrary to their national interests, so, too, in this case the State Department has to walk in the shoes of the city, its residents, and its officials. How does this bill, which the State Department supports, protect the interests of the city and its citizens with respect to zoning issues?

Mr. MICHEL. Mr. Chairman, the suggestion was made that the bill would eliminate citizen participation. We do not think it does.

We would expect that the decisionmaking body, whatever it might be—the National Capital Planning Commission or something else—would develop appropriate procedures that would take into account the views of the citizens, and that this would provide protection.

Also, we think that the decisionmaking body should include representation from the city government as well as Federal representatives

so that these decisions will take into account municipal interests. Finally, we think that the criteria to be followed in making these decisions should include not only Federal considerations but also municipal interests in historic preservation, in balanced neighborhoods, and the other interests that a community will have.

We recognize that these chanceries have to be neighbors of the surrounding businesses and homes. We are not anxious to have a process that imposes some solution that does not fit and that for the long term might only make a difficult situation for the foreign government involved.

The CHAIRMAN. I have another half dozen or so questions involving legal issues and the Office of Foreign Missions itself.

In view of the time delays that we have had today and the public panel that has yet to come before us today, I will submit those questions to you for the record and ask that they be responded to in writing. We will keep the record open for that purpose.

I want to thank you very much, gentlemen, for being with us.

Mr. TRACY. Thank you, Mr. Chairman.

The CHAIRMAN. We now have a public panel of distinguished citizens. It will consist of the following people: first is my friend and outstanding attorney, Sylvan M. Marshall of Marshall, Leon, Weill & Mahony of Washington, D.C.; also George Blow of Patton, Boggs & Blow, testifying on behalf of the Sheridan-Kalorama Neighborhood Council and Ad Hoc Committee on the Foreign Missions bill; Mr. Whayne S. Quin of Wilkes & Artis, Chartered, Washington, D.C.; and, Mr. John Lawrence Hargrove of the Citizens Planning Coalition of the District of Columbia, Inc.

Gentlemen, we are very pleased to have you here today. There is no guarantee that you are going to agree on this issue, but you are among the most respected and responsible public witnesses that we can find to present opposing points of view in order to indicate the nature of the problem that we have in our laps and which we will have to resolve somehow.

Your presence here will help us greatly in that regard.

Why don't we begin with Mr. Marshall. We would be happy to have you make any statement that you like. I will have some questions for you in a while.

If any of you have statements which you would like to incorporate into the record, we will do so. You may summarize your comments, if you wish, in the interest of time.

Mr. Marshall.

[Mr. Marshall's biographical data follows:]

BIOGRAPHICAL DATA OF SYLVAN M. MARSHALL

Born: May 14, 1917, New York City, New York.

Married: Mara Byron, February 11, 1951, New York City.

Children: Douglas Wayne Marshall, born July 11, 1955, Washington, D.C.; Bradley Ross Marshall, born April 4, 1958, Washington, D.C.

Address: Office: 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016; Home: 2929 Ellicott Street, N.W., Washington, D.C. 20008.

Education: College of the City of New York (1938), Bachelor of Arts; Harvard Law School, Cambridge, Massachusetts (1941), Juris Doctor.

Career: 1941–1946: Officer in the United States Army, Second Lieutenant to Lieutenant Colonel; duties included Assistant Professor of Military Science and Tactics; Adjutant General, U.S. Military Mission to U.S.S.R.; Chief Instructor in Law, Military Law and Administration, The Adjutant General's School.

1946–1950: Attorney, law offices of Garey & Garey, 63 Wall Street, New York City, private practice.

1951–1953: Special Assistant to the General Counsel, Office of Price Stabilization, Washington, D.C., in charge of relations with the United States Congress and Government agencies; recruitment, assignment, promotion and discharge of attorneys; supervision of administration.

1953–1958: Partner, law firm of Granik & Marshall, 1627 K Street, N.W., Washington, D.C., private practice. Simultaneously, Associate Producer of two nationwide network public affairs television programs, "Youth Wants to Know" and "American Forum of the Air", National Broadcasting Company.

1959–1963: Law offices of Sylvan M. Marshall; general Federal administrative practice of law, specializing in the representation of national and international corporations. Embassies, diplomatic missions, Federal savings and loan associations, and banks.

1963–1965: Senior partner, law offices of Marshall, Euzent and Harrison, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009; continuation of above practice.

1965–1969: Senior partner, law offices of Marshall and Harrison, 1875 K Street, N.W., Washington, D.C. 20006; continuation of above practice.

1969–1974: Partner, law offices of Soll, Connelly & Marshall, 230 Park Avenue, New York, New York 10017, in addition to Washington practice.

1968–1970: Senior partner, law offices of Marshall, Harrison and Soll, 1825 K Street, N.W., Washington, D.C. 20006; continuation of above practice.

1971–1974: Senior partner, law offices of Marshall & Soll, 1825 K Street, N.W., Washington, D.C. 20006; continuation of above practice.

1974——: Senior partner, law offices of Marshall, Leon, Weill & Mahony, 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016, and counsel to law offices of Leon, Weill & Mahony, New York City, New York.

Professional status: Admitted to practice before: State of New York (all Courts); United States District Court, Southern District of New York; United States District Court, District of Columbia; United States Circuit Court of Appeals; Court of General Sessions, District of Columbia; United States Treasury; Interstate Commerce Commission; Court of Military Appeals; Veterans' Administration; Federal Communications Commission; War Claims Commission; General Accounting Office; Federal Home Loan Bank Board; Comptroller of the Currency.

Public service and honors: Special Ambassador of the President of the United States, to the Inauguration of the President of Mexico; Consul of Finland; Member, Board of Trustees, The American University, Washington, D.C.; Knight Commander, Order of Vasco Nunez de Balboa, Panama; Commander, Order of the Lion, Finland; Order of the Crown, Iran; Knight, Order of the Southern Cross, Brazil; Commander, Order of Ruben Dario, Nicaragua; Commander, Order of the Falcon, Iceland; Commander, Order of the Aguila Azteca, Mexico; Commander, Order of the Lion and Sun (Homayoun), Iran; Commander, National Order of Merit, Mauritania; Honorary Deputy Police Commissioner, New York (former); Mayor s Committee, New York Golden Jubilee (former); Special Deputy Attorney General, New York State (former); Member, Cosmos Club, Washington, D.C.

Listings: International Yearbook and Statesmens' Who's Who; "Who's Who in the South and Southwest"; "Who's Who in Finance and Industry"; "Who's Who in American Law" (pub. Oct. '77); "Who's Who in America"; "Who's Who in the World"; Social List of Washington; Blue Book of Washington.

STATEMENT OF SYLVAN M. MARSHALL, MARSHALL, LEON, WEILL, & MAHONY, WASHINGTON, D.C.

Mr. MARSHALL. Thank you, Mr. Chairman.

First, permit me to say that basically I have no disagreement, and, in fact, I endorse the State Department bill.

I have come here today because our law firm and I represent a number of foreign governments. But I am not here on the specific behalf of any of them at this time.

The legalities and the balances all have been discussed by the witnesses who preceded me, and I want to bring to the attention of the

chairman and the committee the fact that there is a very acute practical problem. There are no chancery sites available at this time for purchase by any government, friendly or otherwise. There is one house on Massachusetts Avenue which has zoning and which recently has come into the marketplace, and I assure the chairman that, if he passes there on his way home, he will see realtors stacked up on the driveway, on the roof, and everywhere else, trying to find a client to buy that one building.

Now, this is not to overlook the fact that the Van Ness Center, the Chancery Complex, does have a number of sites available.

While from the standpoint of some countries it is desirable to be in an enclave, many countries feel, as we do when we go overseas, that we want an individual, self-identifying building, not part of a compound.

I think the desires of such countries have to be accommodated, just as the desires of others to huddle within an enclave have to be accommodated.

Now there was talk this morning by the city representatives of disrupting the lives of residents by the construction or occupation of office buildings. I would like to talk about a particular country which I have the honor to represent, and that is Bangladesh.

The Senator is well aware of the problem of Bangladesh because I know you have discussed it with their distinguished ambassador. But I do want to point this out. The Bangladesh site, which never has been allowed as a chancery, although I believe it was purchased 4 or 5 years ago, is a mansion. It is not, as Mr. Gibson said, one of a series of row houses. It was the home, as you may recall, of Mr. William Casey and his wife before Bangladesh purchased it.

I want to say that for Jim Gibson I have great respect and admiration. He is a very competent man. But this house, standing by itself, is no different than any other mansion on the same block. When the hearing went before the BZA, and I, unfortunately, did not represent the embassy in that hearing, they were told that the principal objection was one of traffic pollution.

We then went to the city after the denial and suggested a compromise whereunder all of the staff cars would be housed in a rented garage off premises and, in fact, off Massachusetts Avenue; and that the only two cars that would be allowed at the embassy, other than visitors, would be that of the Ambassador and a shuttle car to take the staff back and forth to a garage, perhaps the Hilton Garage or one of those. That was not accepted, even though that was told to Bangladesh as being the principal reason for the denial.

We come back inevitably to the question of the availability of sites, if you don't want to go to Van Ness. As I said, as a practical matter, there are none.

I want to touch briefly upon the Iranian situation because I was also involved in that one, as the attorney.

Some 3 years prior to the case, Iran had purchased a private home, a very distinguished private home, on the same parcel of property where the embassy and chancery existed. They wanted to use one floor of that home as an office adjunct because they were spreading their staff all over the city, as many embassies have had to do.

They stipulated that they would not use the street which ran in front of that house as a parking place. They stipulated that all entry

into the building would come from within the compound, rather than from outside. There were five or six witnesses who testified against. Of those, only one was within eyeshot of the building. All the rest were neighbors on off-streets, who had no view of 30th Street and no view of what we call the Ward House.

Nevertheless, as Secretary Tracy has said, the restrictions were applied because of the toughened regulations which came in in 1978.

I believe the chairman is on the right track when suggesting a compromise, but I would like to make a small amendment, if I may.

I don't see any reason, now that the NCPC has voted 8 to 1 against reception of this responsibility, for including the NCPC in a partnership with the Zoning Commission. I believe it would be possible to create a new Office of Foreign Chancery Allocation, or something like that, which would be balanced between the Zoning Commission itself and representatives of the Department of State.

I think, as a citizen of the District, that we do not need to have the Pentagon involved in this, as has been suggested. I don't think we need the Interior Department. The NCPC could be an adviser to this new commission. But it is the State Department which is most concerned with the problems of housing these embassies and chanceries. Therefore, I would like to suggest that a bipartisan—so to speak—District-State Department commission would be the ideal solution here, with the NCPC off as an advisor, as it must be.

Mr. Chairman, that basically concludes what I have to say.

To summarize briefly, the foreign governments who are seeking chancery locations need relief. The Congress appears to be the only place where they are going to find it.

Thank you.

The CHAIRMAN. Thank you very much, indeed.

Mr. Quin, we are happy to hear from you next.

Let me ask each of you to possibly aim for a 5-minute limitation on your statements. We do have a time problem, as you can see. Certainly the record will be kept open for any further comments that you may have.

[Mr. Quin's biographical data follows:]

BIOGRAPHICAL DATA OF WHAYNE S. QUIN

Place and Date of Birth: Louisville, Kentucky, October 8, 1937.

Marital Status: Married, two children.

Address: 5084 Lowell Street, N.W., Washington, D.C. 20016.

Education: Elementary Schools: Ballard Elementary, Louisville, Kentucky Howell Elementary, Clarksville, Tennessee.

Secondary School: Clarksville High School, Clarksville, Tennessee. Graduated: May 1955 (President Student Body, Honor Society).

College: Vanderbilt University, Nashville, Tennessee, graduated: B.A. (English), May 1959.

Activities: President, Vanderbilt Junior Bar Association; Associate Editor, College Annual; Winner, Intramural Debate, 1957; Cabinet, Student Christian Association; Intramural Sports; Sigma Alpha Epsilon (Social Fraternity) Secretary, 1958, Vice President, 1959.

Law School: University of Virginia, Charlottesville, Virginia. Graduated: J.D., June 1964.

Activities: Virginia Legal Research Group—an organization (members of which are competitively selected from the student body) that assists practicing attorneys in briefs and legal memoranda; Virginia Law Weekly (Editorial Staff) 1961–62—a weekly student newspaper presenting news of local, national and international interests; John Bassett Moore Society of International Law—an

organization devoted to discussions of current topics in international affairs; Phi Alpha Delta—legal fraternity.

Military Service: U.S. Navy, Date of Entrance: July 1959, Rank: Ensign; Date of Separation: May 1961, Rank: Lieutenant (j.g.).

Assignments: Aircraft Carrier—Assistant Communications Officer; Defense Counsel—Summary and Special Courts—Martial; Naval Reserve Intelligence, Charlottesville, Virginia and Washington, D.C. 1962–67, Rank: Lieutenant.

Prior Employment: (Since 1964) Law Clerk to Judge Joseph C. McGarraghy and Judge David A. Pine, United States District Court for the District of Columbia.

Bar Admissions: District of Columbia, State of Tennessee, Federal Courts for the District of Columbia, United States Supreme Court.

Present Employment: Associate, Law Firm of Wilkes & Artis (1966–70); Partner, Law Firm of Wilkes & Artis (1970–79); and; Shareholder, Wilkes & Artis, Chartered (1979 to date).

Professional Experience: Since 1966, Mr. Quin's legal specialization practices has been in the areas of zoning, urban planning, building and housing codes, historic preservation, condominium and rent control, urban renewal and related real estate matters. His representation has been primarily for builders, developers, financial institutions and property owners.

In the zoning field, Mr. Quin has advised clients on the requirements and procedures necessary to accomplish residential, commercial, and industrial development. At the administrative level before the Board of Zoning Adjustment, Zoning Commission, and National Capitol Planning Commission, he has an experience in over 500 cases ranging from additions to single family dwellings to text amendments for the Hotel Association of Washington, D.C. to the largest commercial and mixed use development in the City (located in the downtown Pennsylvania Avenue Development area).

In the urban planning, building, and housing code fields, advice to clients in the private sector has related to all areas of the City with emphasis on the areas from Capitol Hill westerly to Georgetown, including the Mount Vernon Square, Dupont Circle, PADC, West End, Downtown and Georgetown Waterfront areas.

In historic preservation, Mr. Quin was involved for private industry in legislative proceedings resulting in D.C. Laws 73–25 and 2–144 and has actively represented clients before the Joint Committee on Landmarks, Commission of Fine Arts, Mayor's Agent and in numerous judicial proceedings. Mr. Quin has recently worked with the D.C. Council on amendments to rent control laws.

Mr. Quin represented the first and only applicant to date under the Public Space Utilization Act and established prototype procedures for review by District of Columbia departments and agencies.

Relating to zoning, building code, historic preservation, and other real estate development matters, Mr. Quin has been involved on behalf of private industry clients in over 75 judicial proceedings many of which have established the prevailing rule of law in this jurisdiction. In 1980, after ten years of litigation, Mr. Quin's research and legal theory culminated in the landmark D.C. Court of Appeals decision that "original" alleys in the District of Columbia which had been established around 1791 pursuant to original Deeds of Trust with the City's founders were titled in the abutting property owners and not in the United States.

Mr. Quin has been a lecturer and seminar participant in various real estate development programs and seminars including the 1974 AIA—National Asso. of Home Builders Seminar "The Private Sector's Program for Action" and the American University School of Business Administration "Preparation and Examination of the Appraiser in Zoning Cases."

Organizations and committees: The District of Columbia Bar—Numerous committees on D.C. administrative procedure and real estate development including chairmanship of sub-committees on Land Use and Zoning.

The Greater Washington Board of Trade—Steering Committee, Real Estate Development Committee, 1977–78 sub-committee on Historic Preservation laws.

District of Columbia Builders Association (DCBA)—Legislative Committee and Government Liaison Committee. 1980 Presidential Award for service.

National Association of Home Builders—Member.

Friends of the National Zoo (FONZ)—Board of Directors, 1972, Present President from 1979 to date.

Washington Committee for CARE.

American Bar Association—Member of Committee on Land Use, Planning and Zoning, Author "Zoning and Land Use Practice" to be published Summer of 1981 for Legal Economic Section—"Working with Legal Assistants" handbook, Volume II.

STATEMENT OF WHAYNE S. QUIN, ON BEHALF OF WILKES & ARTIS, CHARTERED, WASHINGTON, D.C.

Mr. QUIN. Thank you, Mr. Chairman.

At the request of the Department of State, I appear here today for the law firm of Wilkes & Artis, Chartered, to comment on S. 854. Our firm has specialized in District of Columbia real estate matters for 55 years and, in addition to advising the Department of State from time to time on land use concerning the location of foreign missions in the District of Columbia, we have represented a large number of foreign missions in proceedings before the Board of Zoning Adjustment, the Zoning Commission and the National Capital Planning Commission.

We are thoroughly acquainted with the day-to-day administrative and quasi-judicial process that governs the location of chanceries or foreign missions in the District of Columbia. It is for this reason, we understand, that the Department of State has asked us to appear here today.

I should note that we are not here to take a position in favor of or in opposition to section 206 of the bill. Rather, I am here to provide some basic information concerning the regulatory framework and to comment generally on the concerns that foreign missions have in finding suitable locations.

I have set forth in our statement a rather detailed history of how the regulatory process has changed since prior to 1958 to the present. I would like to shorten that testimony and simply state that, prior to 1958, there were no regulations from the zoning standpoint that governed chanceries. In fact, chanceries were not even required to have a certificate of occupancy.

Changes occurred in the 1958 comprehensive rezoning of the city which permitted chanceries in all residential zones by special exception, that is if stated criteria are met before the Board of Zoning Adjustment. Of course, in 1964, there was a further change with which you are familiar.

Finally, in 1978, we had the adoption of the regulations that presently exist by the Zoning Commission after the National Capital Planning Commission had adopted the Federal element for the location of foreign missions. In other words, the Planning Commission did set forth the planning guidance and the Zoning Commission followed that to some extent.

In short, the amendments that occurred in 1978 did four things that I think are important for your consideration.

First, those amendments prohibited foreign missions from locating in commercial districts of C–1 and C–2–A and all industrial districts, including the commercial light manufacturing and general industry districts.

Second, they permitted foreign missions to locate in the waterfront zone and mixed use zone and certain other commercial zones as a matter of right. This particular act just continued the existing permission.

Third, they established an overlay zone in which chanceries in the approval process would come before the Board of Zoning Adjustment to see if they met certain criteria.

Fourth, the Chancery Act provisions with regard to the medium-high density residential and high density residential zones were continued.

This brings us to the concern that the missions which we have represented have stated to us. I would like briefly to go through those.

First, without exception they have expressed serious concern about the time delays and review process inherent in the present regulatory system. Specifically, with regard to delay, the period of time from completion of preliminary architectural plans through the issuance of an order from the Board of Zoning Adjustment has averaged approximately 8 months. This period of time, it should be noted, is after informal reviews have occurred and also is without regard to additional reviews that may take place by the National Capital Planning Commission, the Commission on Fine Arts, or the District of Columbia Joint Committee on Landmarks.

With regard to the substantive review, the foreign missions are even more concerned. The tests which they find under article 46 include not only objective standards, but subjective standards as well. These are the ones that give the foreign missions the problem because they require a subjective judgment by the body—namely, the Board of Zoning Adjustment—so that the foreign missions cannot predict with comfort whether or not their efforts to locating a precise location will be successful.

The matter of right problem seems to be at the heart of many of the foreign missions' concerns. They would like to know with some certainty that, within a short period of time, their plans would be approved. Under the Zoning Commission regulations, however, only 3.3 percent of the nonfederally owned land of the city is available for matter of right location. Chanceries either are prohibited or permitted only with Board of Zoning Adjustment approval in the balance of the remaining land of the city. Of that 3.3 percent, 2.7 percent consists of high density commercial, which normally is developed with higher density office buildings. Chanceries do not wish to locate there, nor is such location acceptable to the State Department from the security standpoint. So, we are left with 0.6 percent of the land area of the city that is non-Federal devoted to mixed uses, where chanceries can locate. Many of those land areas are not suitable for chanceries.

So, there are certain zones which are very limited. I think that there are very few areas of matter of right.

With regard to the question that you have asked about compromise, my understanding as a lawyer is that you normally have to have two willing parties to start the negotiations. As I understand it today, you have one willing party, and thus it appears that the ball is in your court.

Thank you, Mr. Chairman.

[Mr. Quin's prepared statement follows:]

PREPARED STATEMENT OF WHAYNE S. QUIN

I. INTRODUCTION

At the request of the Department of State, I appear here today for the law firm of Wilkes & Artis, Chartered to comment on H.R. 3518 concerning the location of

foreign missions in the District of Columbia. Our firm has specialized in District of Columbia real estate matters for fifty-five years and, in addition to advising the Department of State from time to time on land use concerning the location of foreign missions in the District of Columbia, we have represented a major portion of foreign governments before the Zoning Commission, Board of Zoning Adjustment, and National Capital Planning Commission—especially in the last two decades. We are thoroughly acquainted with the day to day administrative and quasi-judicial process that governs the location of chanceries or foreign missions in the District of Columbia. It is for this reason, we understand, that the Department of State has asked us to appear here today. I should note that we are not here to take a position in favor of or in opposition to Section 206 of H.R. 3518. Rather, I appear to provide basic information concerning the regulatory framework presently governing chanceries in the District of Columbia and to comment generally on the concerns that foreign missions have in finding suitable locations in the District of Columbia.

II. HISTORY OF ZONING REGULATION PROVISIONS RELATED TO CHANCERIES

Prior to 1958, chanceries were permitted in any and all zoning districts (residential, commercial, and industrial) in the District of Columbia as a matter of right. In fact, prior to 1957, a certificate of occupancy was not required for such chancery uses.

In 1958, the Zoning Regulations were amended in the comprehensive rezoning of the City and new chanceries were then permitted in all residential zones by special exception approval of the Board of Zoning Adjustment. In S–P zones, chanceries were permitted in buildings constructed prior to 1958 as a matter of right and in new buildings only by special exception approval of the Board of Zoning Adjustment. In all other commercial and industrial zones, chanceries were permitted as a matter of right.

In 1964, Congress enacted the Chancery Act [see, Section 5–418, et seq., D.C. Code (1973)]. The Chancery Act, by its terms, essentially prohibited new chanceries in all residential zones except for the medium-high or high density zones (at that time, R–5–C and R–5–D) wherein they were permitted by special exception approval by the Board of Zoning Adjustment under criteria set forth in the Chancery Act. No restrictions are contained in that Act for Special Purpose, Commercial or Industrial zones regarding the establishment of chanceries. The provisions of the Chancery Act by operation of law have been read into the Zoning Regulations so that chanceries were precluded from being established in the R–1, R–2, R–3, R–4, R–5–A, and R–5–B zones, permitted by special exception from the Board of Zoning Adjustment in the R–5–C, R–5–D, and S–P zones, and permitted as a matter of right in all other existing zones.

In October of 1977 pursuant to the District of Columbia Self-government and Governmental Reorganization Act, the National Capital Planning Commission adopted a Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital. In general, that element established goals, objectives, criteria, plan policies, and implementation proposals for foreign missions in the District of Columbia. In other words the Element of the Comprehensive Plan provided a planning framework to govern actions of various agencies of the District of Columbia concerned with the location of foreign missions.

Subsequent to the enactment of this Element, the Zoning Commission of the District of Columbia, after public hearings as provided for by law, amended the Zoning Regulations of the District of Columbia to change the Regulations as they related to the location of foreign missions. Without going over the amendments, provision by provision, the zoning text amendment had the following effect:

A. Restricted foreign missions from locating in the commercial districts of C–1 (neighborhood shopping) and C–2–A (medium density community business center) and all industrial districts including the commercial light manufacturing (C–M) and M (general industry) districts.

B. Permitted foreign missions to locate in the W (waterfront), C–R (mixed use), C–2–B (community business center medium-high density), C–3 (major business and employment center), C–4 (central business district), and C–5 (Pennsylvania Avenue development) districts. This particular action simply continued the right of chanceries to locate in those specific zones.

C. Established a diplomatic overlay zone to be concurrently mapped with other zones in which foreign missions were not normally permitted and providing that within the overlay zones foreign missions could be established with the approval after notice public hearing and quasi-judicial review.

D. Continued the special exception approval process before the Board of Zoning Adjustment for the establishment of chanceries in an R–5–C (medium-high density residential) and R–5–D (high density residential) zones. The S–P (special purpose zone) also was continued by the Zoning Commission to allow foreign missions to be established with special exception approval of the Board of Zoning Adjustment.

III. CONCERN EXPRESSED BY REPRESENTATIVES OF FOREIGN MISSIONS IN SEEKING LOCATIONS

In the course of representing a large number of foreign governments in seeking space within the District of Columbia for foreign missions, the foreign mission representatives have without exception expressed serious concern about the time delays and review process inherent in the present zoning regulatory framework. Specifically, with regard to the process of delay, the period of time from completion of preliminary architectural drawings and the starting of the review process through the receipt of an Order from the Board of Zoning Adjustment has average approximately eight months. This period of time, it should be noted, is after informal reviews with various agencies of the District of Columbia and the National Capital Planning Commission and does not necessarily include additional reviews that might be required by the National Capital Planning Commission, the Commission of Fine Arts, the District of Columbia Joint Committee on Landmarks or the Mayor's Agent for Historic Preservation. I should also note that in one foreign mission case before the Board of Zoning Adjustment, the timing of the process incurred more than thirteen months and in another case wherein the Order has not yet been issued by the Board of Zoning Adjustment it appears that the Order will be issued after a record processing time of approximately three and one-half months.

With regard to the substantive review, representatives of foreign missions are equally if not more concerned. The test under Article 46 of the Zoning Regulations which the Board of Zoning Adjustment must apply under the Zoning Regulations in a quasi-judicial fashion is a determination that "the proposed chancery is not incompatible with the present and proposed development of the neighborhood." The text then goes on to list certain subjective as well as objective tests. Since certain of the tests are subjective, representatives of foreign missions are concerned that they cannot predict with comfort whether or not their efforts in pursuing a certain location will be successful even after a preliminary review with favorable indications and after a substantial expenditure of funds for the preliminary architectural drawings. Representatives of the foreign missions are further concerned that public hearings appear to be very broad in scope without criteria which would weigh, in a suitable fashion, the approvals of the Department of State and other diplomatic factors.

IV. CONCERN WITH LIMITED "MATTER OF RIGHT" AVAILABILITY OF SITES

The foreign missions which we have represented would prefer a regulatory process which with a reasonable degree of certainty would provide an enlarged area of land or buildings for the establishment of new chanceries. Significantly, under the Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital adopted by the National Capital Planning Commission in 1977 and amended in 1978 and 1979, the criteria for the location of foreign missions includes the language that "to meet the objectives, new, expanded, or relocated Chanceries, Chancery Annexes, and combined Chancery/Embassies, . . . shall be permitted as a matter of right to locate [in specified areas]. . . ." Paragraph 313.41. Under the Zoning Regulations, however, only 3.3 percent of the non-federally owned land of the City is available for "matter of right" location of chanceries. Matter of right includes only the W, C–R, C–2–B, C–3–A, C–3–B, C–4, and C–5 zones. Chanceries are either prohibited or permitted only with Board of Zoning Adjustment substantive review in the remaining land area of the City.

Obviously while there is a desire on the part of foreign missions to be located in concentrated areas where security afforded under treaty can be provided there nevertheless is a strong desire for additional land availability. It may also be noted that in general, the foreign governments prefer their foreign mission facilities to be located in separate discrete buildings and not within major office buildings which are generally the types of structures found in the medium to high density commercial districts constituting 2.7 percent of the 3.3 percent of non-

federal land area represented above. The remaining 0.6 percent for the most part includes structures devoted to mixed use which have not been sought as suitable locations for chancery facilities. Thus as a practical matter, except for a very few larger diplomatic missions, there is very little, if any, suitably available "matter of right" land.

V. FOREIGN MISSION REPRESENTATIVES ARE CONCERNED WITH "NON-UNIFORMITY"

Frequently, representatives of foreign missions have voiced the opinion that their specific foreign mission use is not permitted in areas of the City or zoning districts where more intense uses can locate either as a matter of right or by special exception. For example, under the present Regulations chanceries may not locate as a matter of right in either the C–1 or C–2–A zones, which zones comprise 3.9 percent of the total land area of the City without federal ownership. Yet general office use for this same area and same zoning district is permitted as a matter of right. Similarly, representatives of foreign missions point to institutional uses such as schools, hospitals, nonprofit organizations, etc. which may be located in certain residential zones as a matter of right or by special exception.

VI. CONCLUSION

I hope that the above comments will be helpful in the deliberations of this Committee. I will be glad to answer questions if the Committee should have any.

The CHAIRMAN. Thank you very much, indeed.

Mr. Blow.

STATEMENT OF GEORGE BLOW, OF PATTON, BOGGS, & BLOW, ON BEHALF OF SHERIDAN-KALORAMA NEIGHBORHOOD COUNCIL AND AD HOC COMMITTEE ON THE FOREIGN MISSIONS BILL, WASHINGTON, D.C.

Mr. BLOW. Mr. Chairman, my name is George Blow. In the past 4 years I have been associated with the representation of the interests of the residents of these neighborhoods in Washington, as Mr. Marshall has been identified with the interests of the foreign missions.

I would say in this connection that I was also counsel for the neighborhood in the BZA hearing involving the application of Bangledesh. I think Bangladesh is a useful example of the compromise that has been effected and is working within the District of Columbia today.

We have filed a lengthy statement for the record. I shall not read it or even attempt to summarize it. But I shall say this.

In and following 1964, the Bangladesh mansion was in an area off limits altogether to chanceries under the Fulbright Act. Any chancery that was established in that neighborhood along Massachusetts Avenue between 1964 and 1978 was established unlawfully and without the consent of the District Government or the National Capital Planning Commission.

The Fulbright Act was perceived in some respects to be too inflexible because it permitted the Zoning Commission no discretion in a block which effectively had been "broken" and which was no longer predominantly residential, so long as that block was in a low density residential zone.

Accordingly, in 1977—and this is where I began to participate in these matters—the National Capital Planning Commission held a number of hearings and made a number of reports. These included a planning report. These included an environmental impact statement. These included proposed related modifications to other elements of the

comprehensive plan for the National Capital. Finally, they included a draft of the Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital.

[Mr. Blow's prepared statement follows:]

PREPARED STATEMENT OF GEORGE BLOW

Mr. Chairman: My name is George Blow. As a resident of the District and a member of the Sheridan-Kalorama Neighborhood Council, I participated in the hearings before the National Capital Planning Commission, the District of Columbia Zoning Commission and the District of Columbia Board of Zoning Adjustment from which developed the existing regulatory approach to the location of chanceries in the District. I am grateful to the Committee for the opportunity to state the position of the residents of the District on this issue.

Section 206 of the Foreign Missions Bill (S. 854) would nullify several years of work by the National Capital Planning Commission and by the District of Columbia Zoning Commission, which together sought and in 1978 finally found a way to accommodate both the Federal and municipal interest in the location of chanceries in the District of Columbia. Adoption by the NCPC and the D.C. Zoning Commission of the "Mixed-use Diplomatic (D) District" to overlay certain areas of the city once altogether "off limits" to chanceries, with provision for limited review, on a case-by-case basis, by the Board of Zoning Adjustment, was responsive to the objections of the Department of State to the alleged inflexibility of the Fulbright Act and District of Columbia residential zoning.

The new regulatory approach made it possible for foreign missions to locate their chanceries in appropriately defined residential areas in cases where the BZA determined, under regulations adopted by the D.C. Zoning Commission in implementation of the NCPC Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital, that the chancery use "is not incompatible with the present and proposed development of the neighborhood." We respectfully submit that this approach is at once consistent with the letter and spirit of the Government's obligations to foreign missions under international agreement and with the Government's legislative commitments to and interest in the welfare of is own citizens.[1]

SECTION 206 IS NOT NECESSARY TO FULFILL THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES

Section 206(a) recites that "in order to ensure the fulfillment of the international obligations of the United States . . . the location . . . of any building or other real property of a foreign mission in the District of Columbia [including the location of or a use of real property for a chancery] . . . shall be subject to approval by the National Capital Planning Commission. . . ." Section 207 excludes the Zoning Commission and the Board of Zoning Adjustment from the review process. The Department of State has not demonstrated that the proposed change in the existing regulatory approach is necessary to fulfill our international obligations.

Under Article 21 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. No. 7502; 23 U.S.T. 3227), which entered into force with respect to the United States on December 13, 1972, "the receiving State shall either facilitate the acquisition on its territory, *in accordance with its laws*, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way." (emphasis added) *As originally drafted*, this article provided that "the receiving State must either permit the sending State to acquire on its territory the premises necessary for its mission, or ensure adequate accommodation in some other way." (Draft Article 19.) According to the report of the United States Delegation, the original draft was rejected when "a number of delegates [other than the United States] expressed the view that the Commission's text imposed a strict obligation on the receiving States *without sufficient account of the legal systems of the various States in which it would be in effect*." (Report of the Delegation of the United States of America to

[1] Resolutions urging that there be no change in the existing regulatory approach have been adopted by The Committee of 100 on the Federal City; the Citizens Planning Coalition of the District of Columbia; the Citizens Association of Georgetown; the Cleveland Park Citizens Association; the Dupont Circle Citizens Association; the Foggy Bottom and West End Advisory Neighborhood Commission; and the Sheridan-Kalorama Neighborhood Council and Advisory Neighborhood Commission.

the United Nations Conference on Diplomatic Intercourse and Immunities, July 13, 1961, page 13) (emphasis added). In 1972, when the convention entered into force, the legal system of the United States strictly limited the location of or use of real property for a chancery. Thus it appears that in Section 206, read in conjunction with Section 207, the Department of State is proposing that the laws of the United States be relaxed in order to accommodate certain unidentified foreign missions—*not* "in order to ensure the fulfilment of the international obligations of the United States. . . ."

There is no need to relax our laws governing the use of real property by foreign missions. Rather, the Director of the proposed Office of Foreign Missions should have express authorization to "assist agencies of Federal, State, and municipal government with regard to . . ." securing compliance with laws to which a foreign mission may be subject. (See Sections 203(b)(1) and 204(b)(4) of the Foreign Missions Bill).

THERE IS "IN PLACE" A WELL BALANCED REGULATORY APPROACH TO THE LOCATION OF CHANCERIES

On Ocober 6, 1977 the National Capital Planning Commission adopted the Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital. This was accomplished in accordance with Section 4 of the National Capital Planning Act of 1952, as amended by the District of Columbia Self Government and Governmental Reorganization Act.

Section 492(e) of this Act provides that "the Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law." The Zoning Act, as amended, provides that "zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the National Capital." Once the Foreign Missions and International Agencies Element was adopted by the NCPC, the Zoning Commission held exhaustive public hearings on the Mixed-use Diplomatic District which the NCPC had proposed. On September 14, 1978, by unanimous vote, the Zoning Commission adopted orders Nos. 236 and 237, which created a new "Diplomatic" zoning classification and mapped diplomatic districts at various locations in the District of Columbia. At the same time the Zoning Commission issued a Statement of Reasons, which reads in part as follows:

"At the request of the National Capital Planning Commission (NCPC) the District of Columbia Zoning Commission adopted Article 46, a new text in the Zoning Regulations of the District of Columbia, to provide for the location of embassies, chanceries and international agencies, Case No. 77–45. In that case, the Zoning Commission established a new Mixed Use Diplomatic (D) District to be mapped in combination with other Districts and provided that the chanceries could be located in the (D) District after a careful review by the Board of Zoning Adjustment to assure compatibility with affected neighborhoods. The same review was also provided for certain other Districts where chanceries are permitted to avoid adverse impacts on neighborhoods.

"In Companion Case No. 77–46, the Mixed Use Diplomatic (D) Districts were mapped at suitable locations in combination with other existing Districts.

"In developing the Mixed Use Diplomatic (D) District and the map, the Zoning Commission considered the criteria of the Comprehensive Plan Element for Foreign Missions and International Agencies adopted by the NCPC, including the map diagram annexed to the element.

"The actions were taken following extensive public hearings at which testimony was heard from the NCPC, the Department of State, representatives of foreign governments, community groups, residents, property owners, a number of Advisory Neighborhood Commissions where chanceries are located or may be located in the future, members of the Council of the District of Columbia and the Municipal Planning Office. The hearings developed wide-spread public interest and debate. The Regulations and Maps that were developed respond to the issues that emerged from those hearings and represent a balance among the need of the international community for suitable locations for the transaction of business in the Nation's Capital and the interest of the residential community to avoid undue intrusions into residential neighborhoods. *Central to this accommodation is the review process established for areas where such accommodation may be required.*

"This review, in effect, establishes a qualified matter-of-right chancery use in the Mixed Use Diplomatic (D) Districts where the review is required. *This review is based on the Board of Zoning Adjustment review for compatibility*

prescribed by the Chancery Act of 1964. It would be administered by the Board of Zoning Adjustment in the same manner as with those reviews that have been taking place to meet Chancery Act requirements.

* * * * * * *

"As part of its action this Commission has established policies, review procedures and standards to guide future actions of the Board of Zoning Adjustment in regard to diplomatic development and has provided the Board with the regulatory framework to ensure the protection and integrity of the mixed-use neighborhoods.

* * * * * * *

"The Board of Zoning Adjustment (BZA) shall refer the application and site plan to the District of Columbia Municipal Planning Office (MPO) for coordination, review and report, said report to include any recommendations with respect to the application and site plan of other District departments and agencies including the Departments of Transportation, Environmental Services, and Housing and Community Development. *Comment also shall be requested of the U.S. Department of State, the National Capital Planning Commission,* and in areas of its jurisdiction of the U.S. Commission of Fine Arts. It should be pointed out that if a proposed chancery site is deemed inappropriate by one or more of the commentng agencies the BZA would be so informed. Accordingly, the BZA would have power to modify or reject the proposal. *Similarly, Federal agencies support of such a proposal would weigh in its favor.*

* * * * * * *

"The review process is adapted from the provisions of the Chancery Act calling for a compatibility review for chanceries located in medium-high and high density residential areas. The review also effectuates a provision of the NCPC plan element directing that "special care" be given to the protection of residential areas in locating chanceries. The review in effect, allows chanceries to locate in review Districts on a controlled matter-of-right basis. *As far as possible, consistent with the Chancery Act, a uniform review process is provided for all Districts that are subject to review.*

* * * * * * *

"The Commission is cognizant of this city's role as the national capital, the need to accommodate foreign missions, the need for a policy framework for the location of such missions and the desirability of providing locational guidance to foreign representatives seeking sites for their missions. We are equally aware that this is the home of about 700,000 people and our responsibility as set forth in the Zoning Act, Section 5–414 of the D.C. Code as follows:

> "Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein."

"The record shows that chanceries and international agencies have in the past located in commercial areas, have been compatible with the other office and commercial uses in such areas and have not at such locations created any unusual problems for the surrounding community. On the other hand, when chanceries locate in predominantly residential areas, they may cause problems unless special care is given to protecting the residential uses. The NCPC plan element provides that such "Special Care" be provided. As pointed out, the review by the Board of Zoning Adjustment is designed to assure such "Special Care"."

At its meeting on June 11, 1981 the NCPC reaffirmed its approval of the actions taken by the Zoning Commission. By vote of 9–1, the NCPC adopted and released a statement (attached hereto as Appendix A) which reads as follows:

"The Commission believes that it has not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions and international agencies. In this context, the Commission reaffirms that the Commission's policy on the location of foreign missions and international agencies is that contained in the "Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital" which the Commission adopted on October 6, 1977, as amended, *which provides that the proper method of implementation is through the local zoning process*, specifically in sections 313.82 and 313.92 which provide that the criteria and plan policies for facilities for foreign missions and international agencies will be implemented through the Zoning Regulations of the District of Columbia and the zoning maps forming a part thereof, *an instruction which the Zoning Commission of the District of Columbia subsequently has carried out.*" (emphasis added).

THERE IS NO GOOD REASON FOR CHANGE

As noted above the NCPC is on record as stating "that it has not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions and international agencies." (Appendix A).

In the Washington Post of April 3, 1981, a spokesman for the Department of State is reported to have stated "that city officials have [1] acted slowly and [2] been antagonistic to foreign governments attempting to find 'adequate and secure office space here . . .'"

As to the first criticism, there is no showing that the NCPC, or any federal authority, could act more quickly in making the determinations which would be required by Section 206 of the Foreign Missions Bill. The process might well take substantially more time than it does now.

As to the second criticism, there is no showing of antagonism on the part of any member of the Zoning Commission or Board of Zoning Adjustment to foreign governments attempting to find "adequate and secure office space here. . . ." In this connection, the denial of the application of the People's Republic of Bangladesh followed a fair and full hearing in December, 1978, in which the Board concluded, on the facts presented, "that this particular subject property [2501 Massachusetts Avenue, N.W.] is not suitable for a chancery and that the chancery is not compatible with the present and proposed development of the neighborhood." (See Conclusions of Law in BZA No. 12822 attached as Appendix B.) There was no evidence of "antagonism" on the part of the Board, which decided the issues 5–0. Bangladesh did not exercise its right of appeal. In August of 1979, the Board approved the application of the Royal Kingdom of Saudi Arabia for chancery use of a building at 2929 Massachusetts Avenue, N.W. (BZA No. 12826, final order dated November 9, 1979).

Both of these applications were forwarded to the Board of Zoning Adjustment by the Department of State for hearing and decision under the new regulations.

It is important at this point to note that the Department of State represented to the D.C. Council in late 1978 and to the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs in late 1979, after both of these cases were concluded, that the NCPC and the D.C. Zoning Commission "can adequately deal with this subject." The following statement was made to the D.C. City Council in the fall of 1978:

"As a representative of the State Department, I am here because the Department fully recognizes *and has participated in the process presently being conducted by Agencies in both the Federal and District Government, which have been effectively trying to balance the important needs of the Federal Government and other community interests, specifically those of the District's residents, as they relate to location of Chanceries.*

"*Both National Capital Planning Commission and the Zoning Commission have been carefully considering the ways to treat Chanceries in the District of Columbia.* These proceedings have been a very lengthy and detailed process with the opportunity for citizens and other interested persons to be heard. The Zoning Commission has just completed lengthy hearings on citizens on this subject. *The Department of State believes these two Agencies can adequately deal with this subject.*" (emphasis added).

On December 17, 1979, W. Beverly Carter, Ambassador at Large for Liaison with State and Local Governments, testified before the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs that, although the Department did not get "all that it wanted," it did get "something we could live with":

"As this Sub-Committee well knows, the Home Rule Act reserves certain powers for the Federal side, including the authority to plan for international activities, and requires that District action not be inconsistent therewith.

The National Capital Planning Commission adopted a Federal plan concerning location of foreign missions in October 1977 which would be vitiated by the latest enactment of the District [The Location of Chanceries Council Act 3-120]. That Federal plan . . . was adopted unanimously. Representatives from the city and from the Senate and House District Committees participated in the session and I should point out that the Federal plan adopted in 1977 did not give the State Department all that it wanted. Far from it. But it was something we could live with, in the effort to meet our international obligations."

Harold Burman, of the Legal Adviser's office of the Department of State, when asked by Senator Eagleton to state the legal position of the Department, responded as follows:

"Mr. Chairman, *the Home Rule Act provided for a separation of authorities in a manner of process which provided an orderly method of interrelating the District and the Federal interests in land use development.*

The essential problem that we have is this. The process under the Home Rule Act, and in our case, since 1975 when the Home Rule Act became available up until recently when the City Council adopted the bill and it was signed into law by the Mayor, provided for the consideration by the Federal Government and the National Capital Planning Commission of the questions of the location of foreign missions. This resulted in the adoption in 1977 of the first Federal element of the new comprehensive plan for the District of Columbia.

That element then was considered by the Zoning Commission of the District of Columbia which, under the Home Rule Act, is empowered to issue the regulations required for the zoning for the District of Columbia. That Commission held public hearings as provided by law, and adopted regulations implementing the Federal plan.

Again, as provided under the Home Rule Act, the action by the Zoning Commission was thereafter considered by the National Capital Planning Commission which includes, of course, representation by the city in order to assure that the city's action was not inconsistent with the Federal plan.

The Home Rule Act provides that such a finding must be made because if they were inconsistent, it "shall not be implemented."

* * * * * * *

We believe the action by the Zoning Commission in accordance with the Federal plan is fully consistent with the Fulbright Act.

* * * * * * *

We feel that there is no inconsistency with the action taken by the National Capital Planning Commission and the District of Columbia's Zoning Commission in terms of the Fulbright Act.

Those areas of the city which the Zoning Commission determined still to be exclusively residential remained outside of that area which the Zoning Commission was willing to permit chanceries to go into.

In other words, the Zoning Commission took the Federal plan and literally did a block-by-block review. Those blocks in which it was determined that no institutional usage existed were excluded from the areas to be permitted under these new zoning regulations for chancery development. This is a manner fully consistent, we believe, with the Fulbright Act. (Hearing Before the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs on S. Con. Res. 63, to Disapprove Location of Chanceries Amendment Act of 1979, December 17, 1979, pp. 4, 13, 14-15) (emphasis added).

Thereafter, Ambassador Carter testified before the Subcommittee on Metropolitan Affairs and the House Committee on the District of Columbia that "the Federal plan, adopted by the National Capital Planning Commission, is fully consistent with law, including the Chancery Act of 1964." (Oversight

Hearing and Markup on H. Con. Res. 228, To Disapprove D.C. Council Act 3–120, December 19–20, 1979, p. 25).

The proponents of Section 206 in the Department of State now ask the Congress to overturn what they defended a year and a half ago as workable and "fully consistent with law . . ."[2]

Apparently they have concluded that this is their opportunity to structure a review process which excludes opportunity for meaningful citizen participation in developing the facts.

THERE MUST BE PROVISION FOR MEANINGFUL CITIZEN INPUT TO DECISIONS ON THE LOCATION OF CHANCERIES

The procedure contemplated by Section 206 does not allow for meaningful citizen participation in the determination by the NCPC of the municipal interest. As Congress recognized in disapproving Council Act 3–120, the Zoning Commission is not responsible to the Mayor of the District of Columbia. Yet, under Section 206, it is the Mayor's office and not the Zoning Commission or the Board of Zoning Adjustment which is to make the determination as to the municipal interest. If the NCPC is to be given authority to approve the location of or a use of real property for a chancery, it should only be upon a recommendation of the Zoning Commission or the Board of Zoning Adjustment following a public hearing. There has been no showing that provision for citizen input to the process by which chanceries are approved is unreasonable or unworkable.

CONCLUSION

The national interest is served where two agencies of government, one charged with responsibility for the federal interest and the other with responsibility for the municipal interest, deliberate, hold extensive hearings and reach a workable compromise which protects both interests. The existing regulatory approach is consistent with the letter and spirit of the Government's obligation to foreign missions under international agreement and custom. It is also consisent with the Government's legislative commitments to and interest in the welfare of those of its own citizens who live in the District of Columbia and who pay real estate, income and inheritance taxes to support the public srvices which benefit all.

The residents we represent, the Mayor, the City Council, the Zoning Commission, the Board of Zoning Adjustment and the National Planning Commission are united in their support of the conclusion reached last month by the House Committee on the District of Columbia that Section 206 should be stricken from this Bill. (H.R. Rep. 97–102, Part 2, 97th Cong., 1st Sess., June 19, 1981)

APPENDIX A

COMMISSION REAFFIRMS FOREIGN MISSION LOCATION POLICIES

At its meeting on June 11, the National Capital Planning Commission adopted and released the following statement concerning the location of facilities for foreign missions and international agencies in the District of Columbia:

"The Commission believes that it has not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions and international agencies. In this context, the Commission reaffirms that the Commission's policy on the location of foreign missions and international agencies is that contained in the "Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital" which the Commission adopted on October 6, 1977, as amended, which provides that the proper method of implementation is through the local zoning process, specifically in sections 313.82 and 313.92 which provide that the criteria and plan policies for facilities for foreign missions and international agencies will be implemented through the Zoning Regulations of the District of Columbia and the zoning maps forming a part thereof, an instruction which the Zoning Commission of the District of Columbia subsequently has carried out."

[2] Further, at page 19, lines 7–16 of the Foreign Missions Bill, they would have the Congress strike the law itself. Since the Federal plan is recognized by the Department of State as "fully consistent with law, *including the Chancery Act of 1964*," there is no occasion to strike this Act.

APPENDIX B

GOVERNMENT OF THE DISTRICT OF COLUMBIA, BOARD OF ZONING ADJUSTMENT

Application No. 12822 of the Peoples' Republic of Bangladesh, pursuant to Section 4603 of the Zoning Regulations, for permission to use the premises as a chancery in the D/R-1-B District at the premises 2501 Massachusetts Avenue, N.W., (Square 2505, Lot 9).

Hearing Date: December 6, 1978.

Decision Date: February 28, 1979.

CONCLUSIONS OF LAW

Based on the record, the Board concludes that the applicant has not met the requirements of Section 4603 of the Zoning Regulations. The subject building exceeds the lot occupancy (Finding of Fact No. 12) and the west side yard is not eight feet wide in its entirety (Finding of Fact No. 13). The Board notes that the applicant at the Public Hearing of December 6, 1978 requested permission to amend its application and seek variances from the lot occupancy and side yard requirements of the Zoning Regulations. The Board concludes that the applicant has not demonstrated why the property qualifies for a variance, in that the applicant has not shown any "exceptional narrowness, shallowness or shape" or "exceptional situation or condition" of the subject property and has not demonstrated how the strict application of the Regulations "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner" of the property. The Board notes, however, that it need not consider these requests for variances since, based on the record these issues are not dispositive of this application.

The central and controlling issue in this application is whether the applicant has met the requirements of Sub-section 4603.21 in establishing that the arrangement of the off-street parking spaces are in keeping with the character of the neighborhood. The Board thinks not and agrees with the reasoning of the community opposition, the ANC, the Office of Planning and Development, the Department of Transportation and the State Historic Preservation Officer. The Board's rationale is based on the following issues. The subject area is a residential area zoned D/R-1-B. There are thirty-four structures in the subject square of which twenty-eight are residences and only six are chanceries (Finding of Fact No. 9). On California Street and on Massachusetts Avenue there is on-street parking limited to two hours which reflects the residential character of the neighborhood (Finding of Fact No. 23). The applicant proposes to relocate its present chancery to the subject site. The relocation will cause the presence of an ambassador, seven officers, eighteen employees, nine automobiles, the occupants of three "residential units" on the third floor and visitors (Finding of Fact No. 8). Office uses, such as a chancery, with its inherent characteristics of noise, increased traffic of people and cars and deserted buildings at night are not indigenous to the subject predominately residential neighborhood.

As to the proposed parking scheme for the rear of the subject building in a predominately residential area the applicant proposes six spaces. Much of the rear garden would be eliminated to accommodate the six spaces. The area would be blacktopped. Valet parking would be required since the area does not provide maneuverability for all six cars and a variance would be required for the proposed driveway since it is not fourteen feet wide as required by the Zoning Regulations (Findings of Fact No. 18, 20 and 21). Of the seventeen residences in the immediate area of Massachusetts Avenue and California Street all have garages. Fourteen are in the rear yards and twelve of them have a one car garage and five have two car garages (Finding of Fact No. 22).

Also, the configuration of the subject lot is wedge-shaped. On it's west side, the building at one point is only approximately one foot from the adjoining building. The noise and fumes from the six cars in the rear would have an adverse impact particularly on the residences to the east and west of the subject site The intensity of the parking in general would not be in keeping with the character of the existing neighborhood in which parking facilities constitute enclosed parking of one or two cars in the rear of the property while still preserving a garden. The aesthetic appearance of the neighborhood would be violated, as well as the amenities of residential living, if this parking proposal was permitted.

The Board has satisfactorily addressed itself to the issues and concerns of the ANC. For the reasons cited above including the area variances needed, an office

use in a predominately residential neighborhood and a parking proposal that is out of character with the neighborhood, the Board concludes that this particular subject property is not suitable for a chancery and that the chancery is not compatible with the present and proposed development of the neighborhood. Accordingly, the application is DENIED.

CONCURRING OPINION OF WILLIAM F. MCINTOSH

I concur in the denial of the application solely on the grounds that, as indicated in Findings of Fact Nos. 12 and 13, the percent of lot occupancy exceeds the maximum permitted in, and the minimum yard requirements are not met for, the D/R–1–B District in which the premises are located.

5–0 (Chloethiel Woodard Smith, Ruby B. McZier, Charles R. Norris, William F. McIntosh and Leonard L. McCants to deny).

The CHAIRMAN. Thank you very kindly, Mr. Blow.

Mr. Hargrove.

STATEMENT OF JOHN LAWRENCE HARGROVE, ON BEHALF OF THE CITIZENS PLANNING COALITION OF THE DISTRICT OF COLUMBIA, INC.

Mr. HARGROVE. Thank you, Mr. Chairman.

My name is John Lawrence Hargrove. I am here representing the Citizens Planning Coalition of the District of Columbia. I should make it clear that I am here principally to address myself on behalf of that organization to the foreign policy and what I would call "host country relations" aspects of the bill.

Rather than read the prepared statement which we are submitting for the record, I should like to summarize by stating three conclusions, and then perhaps would take a moment or two to elaborate on one or two of those.

The first relates to a matter touched upon only peripherally thus far but which seems to me, because of my background as an international lawyer—particularly having been legal adviser to the United States Mission to the United Nations for a number of years in a city which may have more foreign missions than this one, incidentally—seems of special importance.

The first conclusion has to do with the principle of reciprocity. The reciprocity provisions in the bill are in our view an extremely important step forward. This principle will serve the individual interests of the United States, and it will serve to strengthen the fabric of the institution of diplomacy as a whole because of the importance of the United States in the world system.

Our suggestion, however, is that these provisions should be more carefully drafted to avoid any suggestion that they are inviting the Secretary of State to abuse the position of the United States as a host state to accomplish extraneous objectives of policy in violation of our own international legal obligation.

Mr. Chairman, earlier you put a question to the Assistant Secretary in response to which he said, I believe, that the denial of specific benefits to foreign governments would be on the sole basis of the denial by that mission's government of such benefits to our missions abroad. In fact, however, the legislation permits such a denial on a much broader and, it seems to me, dangerous basis. It permits denial on any occasion when the Secretary determines that it is necessary to "protect the interests of the United States"—an open-ended invitation to

use our position as receiving state to accomplish a variey of extraneous policy objecives.

It seems to me that this is not consistent with our international legal obligations. It is not the position permitted by the Vienna Convention and, incidentally, not the position embodied in the legislation adopted in 1978, incorporating the privileges and immunities of that Convention into our national law.

The second conclusion is this. Quite aside from the office-building-location issue which has occupied most of the time in the course of the hearing today, we believe the bill should explicitly add a mandate to the Secretary of State and to the new Office of Foreign Missions to facilitate the efforts of responsible public officials at every level to insure the routine compliance by foreign missions with their obligation under international law to observe a wide variety of national laws and regulations. As you know, some of those are local and some are Federal.

The bill is well drafted to do this. For the first time in our history, it provides the Secretary of State a range of tools for managing host country relations of the subtlety and scope necessary to do this job in a business-like fasion. It thus far has not been done, and we think this opportunity ought not be missed.

Finally, Mr. Chairman, we believe the same geueral approach ought to be applied to the issue of the location of foreign government office buildings. Foreign governments here, just as our missions abroad, fundamentally are obligated to observe local law and regulations. Our obligation, as receiving state, extends only to facilitating their efforts to obtain suitable accommodation.

The policy of seeking to deal with the mission office building location issue through placing foreign governments in a legally-privileged position, beyond the privileges and immunities to which they are entited as diplomatic establishments, is subject to the following objections. First, it is not required by international law. Second, it does not appear to be required by the practicalities of administering host country relations and, in particular, so far as we can tell from the record and our own experience, the practicalities of providing secure facilities for these missions. Third, it is prone to exacerbate the irritations and problems of day-to-day administration of host country relations by placing these decisions on an ad hoc basis rather than subject, in general, to a continuing regimes of rules.

Finally, particularly if it is applied in our own dealings with foreign governments, and if this is a part of the intention of the Department of State in putting this position forward, it very likely will be bad foreign policy, in my judgment.

When we are dealing with a foreign government as to our own mission, we should not put ourselves into the position, on the chancery location issue or any other, of suggesting that we need to be in a further legally privileged position beyond that of the local population of the country. Particularly we should be careful about doing that if our seeking after special privilege is likely to be regarded with any foundation at all by the local population as infringing their values and interests.

This is precisely the situation which, viewed from a foreign policy point of view, we are trying to grapple with here.

Thank you, Mr. Chairman.

[Mr. Hargrove's prepared statement follows:]

STATEMENT OF JOHN LAWRENCE HARGROVE[1]

INTRODUCTION

I should like to comment on the bill from the point of view of the foreign policy interests of the United States in the machinery of the conduct of diplomatic relations. In the process I would like to draw two or three conclusions relating specifically to the issues arising out of this bill which have been of most direct concern to residents of the National Capital area and others specifically interested in the future development, liveability, and historical and architectural character of this capital city.

For the United States, as for any country, the interest in diplomatic relations is two-sided: on one side is the need to ensure responsible treatment of our own missions abroad, so that they may discharge their responsibilities. On the other is the administration of our own "host-country relations" with foreign missions. The basic point of the present bill, of course, is to make certain changes in the way we deal with the latter interest, in order more effectively to pursue the former. These relations considerably exceed those of any other country in extent and complexity, as a result of our extensive bilateral diplomatic relations and the location on our territory of the headquarters of the United Nations and a number of other large international organizations. This phenomenon in turn reflects the special importance, and I would suggest the special responsibility, of the United States in the present global system.

But the interest in these matters of any country—and for the reasons just mentioned particularly the interest of the United States—goes beyond the tending of its own particular relations as sending or receiving state. It extends to the efficiency, usefulness, and general health of the institution of diplomacy itself. We have just experienced most painfully what is perhaps the most egregious assault on that institution in the postwar era, and this is among the important lessons that emerged from that experience.

It is from this prospective of enlightened self-interest that we should assess any proposed major changes in our own law, policy or practice regarding diplomatic relations. Because of our role in the world our own action will have a direct impact on the institution itself, and may well have a continuing effect by being taken as a model by others.

Let us look at the bill in the light of four distinct kinds of problems intrinsic to the management of host-country relations. These are:

(1) Ensuring reciprocity vis-a-vis our own missions abroad;

(2) Providing services to foreign missions;

(3) Ensuring compliance by foreign missions with their own obligations here;

(4) Determining the rules governing the location, use and character of foreign mission property.

1. Ensuring Reciprocity

The first of these—ensuring reciprocity—is the main target of the bill. In this respect the bill is a welcome and long overdue move, for which the case has already been well stated: our own government needs to be enabled (though not necessarily required) to grant or withhold benefits to or from a foreign state's mission here on the basis of a rule of reciprocity, where that state is withholding benefits from our own missions abroad to which they are lawfully and reasonably entitled.

An important caveat is in order, however. The cardinal guidelines governing our policy toward the machinery of diplomatic relations must be a scrupulous respect on our part for the international rules, laid down principally in the Vienna Convention on Diplomatic Relations, and uncompromising insistence on such respect from countries in which we have diplomatic missions. It is quite appropriate to withhold benefits from a mission here, even to the point of falling below the minimum standard specified in the Treaty, where that mission's government has accorded such treatment to our mission abroad. For in such a case we may regard our own legal obligations as suspended, and indeed the Convention itself (in Article 47) would entitle us to reciprocate, in respect of a particular provision of the Convention, against a mere "restrictive application" of the Convention against our own mission abroad.

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[1] Director of Studies, American Society of International Law, Director of Legal Studies, John Hopkins School of Advanced International Studies, formerly Legal Adviser to the United States Mission to the United Nations (affiliations provided for purposes of identification only).

This seems to me to be a part of the intent of the legislation in its Section 204, which in effect permits an arrangement by which provision of various benefits to a mission will be "cleared" through the Department of State. The language of that section, however, seems to go well beyond the requirements of reciprocity, and to authorize the Secretary of State, even in the absence of a violation or unreasonably restrictive application of the Convention to our mission, to restrict or withhold benefits anytime the Secretary determines that it is necessary "to protect the interests of the United States". This provision seems to me clearly to envisage (although not to require) action contrary to our own international legal obligations. This is particularly true since as a general rule the Convention requires equal treatment of states and permits discriminating against a state only in respect of a particular provision that the state has itself applied in a restrictive fashion (Article 47). The section as presently worded reads too much like an invitation to the Secretary to use our control as a receiving state over the effective working of the machinery of diplomacy as a sort of weapon to achieve an open-ended range of other, unconnected foreign policy objectives, without regard to our own legal obligations. Even if nothing more than a signal, this would be a bad signal to send, either to the Secretary or to the world. This is not, I should note, the position reflected in the Diplomatic Relations Act of 1978, which incorporated the privileges and immunities of the Vienna Convention into U.S. law and permits less favorable (or even more favorable) treatment only on the basis of reciprocity.

Finally, I should note a potential weakness in the provisions for administering reciprocity that appear in Section 205, relating to foreign mission real property. That section seems to apply by its terms only to property owned or being acquired by a foreign mission. In order to accomplish its apparent purposes, however, it probably should also embrace at least some situations in which the actual or prospective owner is a foreign government and the property in question is at some time held for other than mission purposes. I would suggest a reexamination of this section with this possible problem in mind.

2. Providing routine services to foreign missions

In setting up an arrangement by which reciprocity may be effectively administered, the legislation also addresses a second task: facilitating the delivery of various services and benefits to foreign missions in this country, with the objective of placing this formidable undertaking on a businesslike basis. This is also a step in the right direction. Foreign mission establishments are, collectively, a significant part of the "business" of this Capital City and of New York City. It should prove useful to recognize this fact by placing the responsibility of the Executive Branch in this regard in a more nearly autonomous, separate unit of the Executive bureaucracy, with the full legal authority to equip itself with the kind of technical staff that may be necessary to the task.

Again, however, it appears that the language may go beyond what is necessary or prudent either for the discharge of this task or to ensure the principle of reciprocity. For when the Sections setting up the new Office of Foreign Missions, and granting it broad authority with respect to the conferring of benefits (Sections 203 and 204), are read in conjunction with the even broader language of the preemption provision (Section 207), the new OFM may well emerge as a kind of discretionary arbiter of almost everything that foreign missions may, must or need not bother to do, preempting the functions of all other Federal, state or local officials and the legal and regulatory rules which they administer (except in regard to the location of chanceries in the District of Columbia, which is specially provided for in the present bill).

It may be that the drafters thought that such an arrangement would strengthen the hand of the State Department in dealing with foreign governments on bilateral matters, by giving them a sort of bottomless basket of inducements to offer in the form of benefits conferred or burdens waived. Or this apparent effect may have been inadvertent. In either event I would suggest that it is ill-advised. This is because it would exacerbate a problem which the present bill has at least the questionable virtue of ignoring, but which in fact, in our view, the bill ought to deal with affirmatively, because of its intimate relationship to the other subject matter of the bill: facilitating compliance by foreign missions with their own obligations in the United States.

3. Ensuring compliance by foreign missions with their own obligations in the United States

The preamble to the bill does mention among its policy objectives, in addition to that of assisting missions in obtaining benefits, privileges and immunities, that of requiring observance of foreign missions of their "corresponding obligations in accordance with international law." In fact, however, the arrangements set up by the Bill seem to be directed only toward those obligations of foreign governments that have to do with their treatment of our missions abroad. The principle international legal obligation of a mission here is to observe the laws and regulations of the United States (Article 41, Vienna Convention), except to the very important but nevertheless limited extent that they are specially exempted by reason of the privileges and immunities they enjoy as diplomatic mission. Even those exemptions are for the most part exemptions from legal process—from the usual techniques of enforcement. They are, by and large, not exemptions from the positive rules of conduct themselves. This is true whether the rules concern operating a motor vehicle, respecting the person and property of others, or (of particular relevance here) all the various matters dealt with in codes and regulations affecting the operation of any substantial business establishment in an urban setting—construction standards; health, safety, public space, and occupancy requirements; historic preservation; and the like.

It is sufficient to say that the regard of foreign missions in this regard has not always been exemplary (I cannot speak of our own record abroad). In fairness to them, however, a good part of the blame may lie in the existing compliance system. Because of the inviolability of diplomatic premises and the general immunity of missions from legal process, responsible officials outside the Department of State, not to mention aggrieved private individuals, are essentially powerless to obtain compliance without the active cooperation and involvement of the Department of State. The Department, however, has an understandable but unfortunate conflict of interest which has tended to render it ineffectual as an enforcement agency, and indeed the Department on occasion shows up as a public advocate for a special exception in favor of a foreign mission to the existing rules.

The present bill explicitly recognizes this built-in weakness, and seeks to deal with it, by setting up a more nearly autonomous unit. What it should do is take the next logical step of giving the Secretary, and the new Office of Foreign Missions, an explicit mandate to facilitate the efforts of responsible Federal, State or local officials to ensure compliance with relevant laws and regulations in this country. We would be happy to suggest amendments to that effect.

In any event, it is clear that the last thing one should do in order to enhance the efficiency of the administration of host-country relations is to impair in any way the obligations of foreign missions to observe local laws and regulations, or the authority of officials responsible therefor. The State Department must have clear rules to point to in dealing with foreign missions and, where necessary, resisting their requests for special consideration. Otherwise the new OFM will be placed in the impossible position of having to choose between purporting to lay down and administer, perhaps on an ad hoc basis, policy on all manner of routine land-use issues ranging from sewers to fire escapes and smoke detectors, or simply neglecting such matters. Either course would virtually guarantee the continuing irritation with foreign missions, with other residents and officials of the localities affected, or both. (And bear in mind what is affected here is not just the District of Columbia, but the rest of the Washington metropolitan area, New York City in a very large way, San Francisco, Chicago, Boston and anyplace else a foreign mission may be located.)

At a minimum, therefore, the language of the bill, particularly Section 207, ought to be revised to obviate any such interpretation. Much better, however, it should be amended to deal forthrightly with the important additional problem of facilitating compliance.

4. Determining the rules governing the location, use and character of foreign mission property

I turn briefly to the fourth and final problem mentioned earlier: determining the rules governing location, use and character of foreign mission property. This problem has been exhaustively discussed, and I would mention only two points out of the international law and policy of the matter.

First, what I have already said suggests that there is a considerable element of self-inflicted injury in the position of the State Department on this problem. For there is no reason in the basic law of the matter why a foreign mission

should be led to expect to be able to construct or operate its office building in an area where in fact it is not allowed by local law. The exact contrary is the case. To the extent that, in supporting the strongly expressed preferences of certain missions for doing so, the Department has been merely following the course of least resistance in an effort to be accommodating, it has unnecessarily turned what should be a smaller problem into a larger one. Its protocol officers would have been better advised throughout the years to stand quietly and firmly on the international obligation of the foreign mission to observe local law.

The Department has argued, however, that the special problems of diplomatic missions require special exceptions to the rules applicable to everyone else. In connection with the current bill the principal reason advanced seems to be the need for physical security of the mission. None of us needs to be reminded that this is a need of the utmost importance, even urgency—a need that engages not only the legal obligations of any receiving state but perhaps the health of the institution of diplomacy itself. But we would suggest that, on the present record, the Department simply has not made any case for a necessary connection between the physical security of a mission and its location in a low-density residential neighborhood.

Certainly no clear conviction to this effect is evident in the actual practice of missions here—where a number are located in buildings of various configurations in commercially zoned areas. The same is true of the actual practice of missions in New York, many of which are located in high-density areas, and many of these in large multiple-occupancy high-rise office or mixed-use buildings. Indeed no such conviction is clearly evident in the practice of the Department of State itself. I am informed that for several years the Department has supported a plan which permits chanceries to be located inter alia in high-density commercial areas. I understand also that it is in agreement with a proposal made by the National Capital Planning Commission to the Zoning Commission that special inducements be offered to foreign missions to locate in downtown areas to be set aside for high-density hotel, commercial and residential use. Certainly our own diplomatic office buildings abroad are not uniformly located in low-density residential areas, though I am not in a position to speak exhaustively on this point. It may be worth noting that an expert panel convened by my own organization conducted a study for the Department of State on the legal aspects of international terrorism, published in 1978, which dealt at length with the problems of protection of diplomatic premises and personnel. The suggestion that these problems are importantly connected with the land-use patterns of areas adjacent to the mission premises did not, to my knowledge, arise in the course of the study.

My suggestion is that the Department's position on this issue, a position which is felt to have adverse effects on other national and local interests, requires a good deal more systematic and persuasive case than has thus far been made on the public record. It would seem unlikely that such a case can be made.

SUMMARY AND CONCLUSIONS

(1) The "reciprocity" provisions of the bill are an extremely important step forward. The principle of reciprocity should serve our own interests and make the institution of diplomacy as a whole work better. These provisions should, however, be more carefully drafted to avoid any suggestion that they are inviting the Secretary to abuse the position of the United States as a host state to accomplish extraneous objectives in violation of our own international legal obligations. At present Section 204 appears to authorize—though it does not require—such conduct, which would tend to weaken, rather than strengthen, the fabric of the institution of diplomacy. It does so by envisaging denial of benefits not only where a foreign government has denied benefits to our mission abroad, but also on the basis of a simple determination that it is necessary "to protect the interests of the United States." (§ 204).

Section 204 should be amended to eliminate this authority.

(2) Quite aside from the office-building-location issue, the bill should explicitly add a mandate to the Secretary and the new Office of Foreign Missions (OFM) to facilitate the efforts of various responsible state, local and Federal, officials to ensure that Foreign Missions routinely comply with a wide range of generally applicable laws and regulations—as they are internationally obligated to do. The bill already lays the groundwork for doing so, and for the first time provides the Secretary with tools of the range and subtlety necessary to do this long-neglected job in an effective and businesslike way.

At the same time the bill should be amended as to avoid any suggestion that it preempts or impairs the responsibility of these officials or the rules they administer—which is the last thing it should do if the objective is to enhance the efficiency of the administration of host-country relations.

(3) The same general approach should govern our approach to the particular problem of location of foreign mission offices. The policy of seeking to deal with foreign mission office-building location through placing foreign governments in a legally privileged position, extending beyond their basic diplomatic privileges and immunities, is:

(1) Not required by international law;

(2) Not required by the practicalities of discharging what international law obligations we do have (including the practical problem of providing physically secure facilities);

(3) Prone to exacerbate the problems and irritations of day-to-day administration of host-country relations; and

(4) Particularly if applied by the State Department in dealing with foreign governments as to our missions abroad, very likely to be bad foreign policy.

The CHAIRMAN. Thank you very much, Mr. Hargrove.

I have just two questions.

From the previous testimony and from your own testimony it is clear that the most controversial issue in the bill is the transfer of jurisdiction over the location of foreign missions from the City Zoning Commission to the National Capital Planning Commission.

FEDERAL AND MUNICIPAL INTEREST

Would any of you care to expand on what you have said and provide a description of what you really see and consider as the Federal and municipal interests. In your judgment, which commission provides the best protection for both of these interests, and why?

Mr. BLOW. May I respond to that sir?

The CHAIRMAN. Please.

Mr. BLOW. Under the existing structure, both commissions work together. The object of the law embraced in the Home Rule Act and in the National Capital Planning Act was to require that they do so. It was to require that the National Capital Planning Commission propose and the District of Columbia Zoning Commission implement, and the NCPC then approve the implementation. That was done over a 4-year period.

The one question that the State Department objected to then and objects to now is this: The finding of compatibility with the present and proposed development of the neighborhood was introduced as part of the implementation and accepted by the NCPC. It is that finding that Mr. Marshall complains of in the Bangladesh case which, as the BZA described it, was one in which "the applicant proposed to relocate its present chancery to the subject site—will cause the presence of an ambassador, 7 officers, 18 employees, 9 automobiles, the occupants of 3 'residential units' on the third floor, and visitors" in one single family residence. This residence was in an area in which, of the 34 structures surrounding, 28 were occupied as single family residences.

The question was heard and decided in a fair and respectful manner by five members of the Board of Zoning Adjustment of the District, who could not be accused of being prejudiced against the Bangladesh in any respect. The decision was 5 to 0 to deny this use as not compatible with the present and proposed development of that block.

The Bangladesh picked the wrong block. They could have picked another block and they could have won, as the Saudi Arabians did.

The CHAIRMAN. Thank you very much.

Does anyone else wish to comment on that question?
[No response.]

POSSIBILITY OF CREATING A DISTRICT OF COLUMBIA COMMISSION

The CHAIRMAN. In talking and thinking about a possible compromise, would any of you have any views about the possibility of creating a District of Columbia Commission to exercise jurisdiction over the location of foreign missions which is composed of elements both of the NCPC and the City Zoning Commission, which preserves the judicial protections of the Zoning Commission.

Mr. Marshall.

Mr. MARSHALL. I would like to return to what I said earlier, Mr. Chairman, in response to your own thought on the matter.

I think the NCPC would best serve in an advisory capacity and that any bipartisan commission should be a District commission to avoid the problem of home rule, but also should be comprised of an equal number of representatives of the one department that is charged with the maintenance of our foreign policy, the Department of State. That makes the most sense to me.

I would like to correct any impression that you may have that Bangladesh felt that there was a discrimination against it by the BZA. We believe that both the Zoning Commission and the BZA are operated honestly, but that the regulations now in effect do, in fact, discriminate more against chanceries than any other kind of structure.

That is all I have, sir, and thank you for the opportunity to be heard.

The CHAIRMAN. Thank you very much.

Mr. Quin.

Mr. QUIN. Mr. Chairman, I just want to add one point.

It seems to me that there is room for compromise, but I think in the compromise there should be concern specifically with regard to the process and fixed criteria, because those seem to be the critical points from a zoning standpoint for a number of the foreign missions.

Mr. MARSHALL. I should like to concur in that, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Blow.

Mr. BLOW. I have one comment, sir.

I think that one problem in the existing bill is that the hearing to be provided is a rulemaking hearing and not an evidentiary, fact-finding hearing as is now provided by the Board of Zoning Adjustment. Accordingly, it is felt that a hearing before the NCPC, which now does not want that authority, or another group, which simply would be one more commission in the District of Columbia, would suffer from the fact that it was not equipped to take evidence and make findings of fact, which we consider important.

The CHAIRMAN. Gentlemen, I thank you very much, indeed, for your fine testimony and cooperation. We hope to work this matter out.

[Additional questions and answers follow:]

STATE DEPARTMENT'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR MATHIAS

Question. 1. By letter dated May 5, 1981, I requested the Department's position on and rationale for S. 854, the Foreign Missions Act. My letter also requested background information on how the location of foreign missions is handled in other selected world capitals.

When may I expect a response to that letter?

Answer. As indicated in the Department's testimony before your Committee on June 24, the Administration supports S. 854. This legislation will enable the Secretary of State to balance the treatment accorded foreign governments in the United States with the treatment received by our government abroad, and will enhance our national security. The establishment of reciprocity as the basis of foreign mission activities will contribute to a more effective management of our relations with other nations, assist in upgrading the security of United States posts and personnel overseas, and help restrain unnecessary cost increases abroad.

Question 2. What is the problem, as the Department sees it, with the current D.C. Zoning and Zoning Adjustment process in dealing with the location, use, modification, or expansion of foreign missions?

Please be specific, citing particular cases, where problems have been encountered.

Answer. The current process of the District of Columbia applicable to the location or expansion of foreign mission chanceries in our capital present substantial problems for the Department of State.

The District Zoning regulations applicable to chancery locations which were adopted in 1978 place unreasonable and discriminatory burdens on chancery applicants, and have caused an undue adverse impact on the Federal interest. The United States Government has an international obligation to facilitate the acquisition of acceptable and secure chancery locations in the capital city, which is directly related to reciprocal treatment of United States missions abroad. The Department has however since 1978 faced an increasingly difficult task in attempting to protect the Federal interest in this area. This situation has had an adverse effect not only on the conduct of our foreign relations, but on the security of our missions as well.

It is important to note that chancery facilities are in most cases lower density land uses, which for security and representational purposes are normally required to be located in separate and individually controlled structures. Larger commercial office structures are in many cases unacceptable for security and related reasons. Federal security requirements have also increased the need to concentrate these uses in areas in which they are already in place.

Current District zoning regulations nevertheless unduly restrict areas in which chanceries can locate, and even prohibit chancery facilities notwithstanding the fact that other institutional or commercial uses may be permitted as a matter of right in the same zones. In some zones, for example, in addition to permitting a wide variety of non-residential uses, all office uses without limitation are permitted, as a matter of right, except for the exclusion of only one use—chanceries. This approach unfortunately has created a negative impact on the important Federal interest involved.

Moreover, the criteria under which decisions are made by local authorities as to particular locations, and municipal regulations applicable thereto, do not properly weigh the Federal interests involved or national security impacts that result from their actions. What has resulted is a system whereby municipal authorities resolve such matters involving Federal interests on wholly local and municipal grounds. What the Department now seeks, and what we believe can result from the legislative proposal now before Congress, is a balanced system whereby Federal concerns are fully weighted together with local concerns, and that the applicable law and regulations adequately reflect that requirement.

Question 3. How, if at all, does the Department foresee the proposed changes in the existing zoning decision-making playing a role in diplomatic reciprocity?

Do you foresee, for example, that the Department might request the National Capital Planning Commission to deny an application of a government, which, although the United States may not have a comparable U.S. chancery location problem in that nation, may be encountering other types of diplomatic or security problems, such as required fees, or denial of staff housing?

In other words, does the Department view diplomatic reciprocity in a broad sense, rather than a specific "tit for tat" sense, whereby, if, for example, a host government denied the United States sufficient staff housing, the United States, rather than doing likewise here, might deny or slow down a chancery application.

Answer. The determination as to which situations encountered by the United States abroad should result in reciprocal imposition of constraints upon foreign government missions in the United States, must be decided on a case by case basis and be balanced with political or economic bilateral issues. Reciprocity

would be applied as a broad concept, that is, constraints imposed on the United States abroad may in some cases not be able to be matched by similar constraints here, or it could be determined that different constraints are necessary.

Some cases, for example, could occur where it is not in the best interest of the United States to permit a particular country to acquire a new location or expand existing facilities, as a result of burdens placed on our government of a wholly different nature abroad. It is expected that cases of that nature would be more appropriately dealt with under procedures authorized by Section 205 of S. 854.

Under Section 205, foreign missions will be required to provide prior notice to the Department, and can only proceed to process applications for approval of new or expanded locations, if the Department does not disapprove such action within a filed period of time (normally 60 days). Thus, specified applications subsequently filed to approve particular locations will have already passed a section 205 review, and would then be considered on their own merits under criteria to be established in accordance with Section 206.

Question 4. What do you view as the most important element of S. 854? Is it the creation of an Office of Foreign Missions, or similar entity, which would determine benefits, privileges, and immunities for foreign governments based on their treatment of U.S. diplomats in their home?

Answer. The most important element of S. 854 in our view is the statement of Congressional policy that reciprocity will be the basis for foreign missions to conduct activities in the United States. This is a policy with which this Administration agrees, and is prepared to support.

It is difficult to separate in order of importance the substantive provisions of the Bill, since the authorities to be granted therein are interrelated. On the other hand, the substantive provisions containing authorization for the Secretary of State to apply reciprocity are necessarily of greater importance than the establishment of an Office of Foreign Missions, and provisions related thereto. One of the substantive provisions, section 206, deals with the location of foreign missions in the nation's capital, which is a necessary element of any reciprocity legislation. Other provisions authorized the Secretary of State to relate, and to improve conditions upon, foreign government activities in the United States.

Question 5. Rank order the most serious types of problems confronting U.S. diplomats around the world (e.g. denial or shortage of staff housing; required fees to the host government;)

Answer. It is not feasible to rank order the difficulties faced by United States Missions and personnel abroad, since the nature of the problems and the severity of each varies country by country. The effect however of increasing constraints on United States missions and personnel abroad has had an adverse effect on the conduct of our foreign relations.

For example, the increasing incidence of discriminatory costs abroad or access to services or supplies involving acquisition or operation of chanceries, staff housing, local labor, etc., are placing unacceptable burdens on overseas operations in an era of declining budgetary resources. Increasing security problems affecting the safety and morale of our embassies abroad has led Congress already to authorize the Department to implement a major overseas program of security enhancement of United States posts. This includes relocating or expanding or improving existing locations where necessary, involves cooperation of host government authorities and a review by them of treatment accorded those governments in our Federal capital.

Question 6. In the 96th Congress, a bill dealing with this same subject of diplomatic reciprocity was introduced as S. 2866. Did the Department have a position on that bill?

S. 2866 called for the creation of a three-member Diplomatic Services Corporation to be appointed by the Secretary of State from among citizens distinguished in the field of foreign policy. It was empowered to assist foreign missions in acquiring or leasing buildings and grounds; securing public services such as customs, importation, and utilities; securing supplies, maintenance, and staff; transportation and travel; protection services; and related services.

Furthermore, the Corporation was to certify to public agencies doing business with a foreign mission, as well as to private businesses, whether the foreign mission was in compliance with that diplomatic reciprocity act.

Does the Department foresee the Office of Foreign Missions performing essentially this same function?

Answer. The Administration supported the general purpose of S. 2866 introduced by the Senate Foreign Relations Committee in the last session of Congress.

The Administration did not, however, support the establishment of a separate corporate organization as proposed in that Bill, and supported instead the establishment of an Office of Foreign Missions within the State Department. The present version of the Foreign Missions Act (S. 854) has adopted the Office of Foreign Missions approach, which the Department believes is the best option to implement this legislation.

The specific requirement for certification of foreign missions which was contained in S. 2866 was not supported by the Department, and is not contained in the present legislative proposal before the Senate. That Department could increase the complexity and cost of administering the Bill, without corresponding benefits in furthering the purpose of the legislation. The Department forsees in other respects the proposed Office of Foreign Missions performing essentially the same functions which would have been performed by the proposed Corporation under S. 2866.

Question 7. S. 2866 from the 96th Congress provided for each foreign mission in the United States to provide an inventory to the Secretary of State of its property interest holdings, the use and location.

Does the Department believe a similar provision should be included in S. 854? Why or why not?

Answer. The statutory requirement proposed in S. 2866 that each foreign mission provide an inventory of properties for the Secretary of State has not been carried over into S. 854. Since the initial inventory would be a one-time requirement, it is the Department's position that this could appropriately be handled by a Diplomatic Note to all foreign missions, and that statutory authority to obtain the information is not necessary.

Question 8. S. 2866 from the 96th Congress provided that the Secretary of State would certify to the head of a foreign mission the particular right, title, interest, or beneficial use which the United States was denied in the home nation and the bill required the foreign government to give up its comparable right, title, interest or beneficial use in property here in the United States.

What is the Department's view on that Section 11(e) of S. 2866?

Should a similar text be included in S. 854? Why or why not?

Answer. A flexible standard will be necessary to assess reciprocity issues, in order to take into account the differing economic and political systems in which we encounter problems abroad the degree to which such problems may involve actions of host government authorities, and other bilateral issues which may effect reciprocity. The provisions of Section 11(e) of S. 2866 therefore would not have promoted effective administration of this Bill, or have resulted in an increase of benefits for the United States. It would not be consistent with the purpose of this legislation to limit the Secretaries authority to impose constraints on foreign government by requiring specific citation of reciprocity purposes.

Question 9. S. 2866 from the 96th Congress established an 8-month time period within which a final decision on chancery or other foreign mission building must be rendered by the Diplomatic Services Corporation.

This year's bill, S. 854 proposes that the National Capital Planning Commission, assume that zoning decision power and render decisions within 5 months.

Why the shortened time frame?

Answer. Following the introduction of S. 2866 during the last session of Congress, consultations between the Department and Federal and municipal administrative bodies handling comparable proceedings indicated that a shorter period of 4 to 5 months was both feasible and more appropriate, in view of the need to expeditiously resolve these issues. The Department has recommended therefore that the period to be allowed for such decisions be reduced accordingly.

Question 10. Has the Department considered seeking eminent domain authority to enable it to acquire property in the District of Columbia for the purpose of locating foreign missions?

Would such authority be helpful to the Department in carrying out its diplomatic reciprocity responsibilities?

Answer. Authority presently exists under Federal law to exercise eminent domain for Federal purposes through the Department of Justice. However, the length of time involved in such proceedings and the need to obtain necessary appropriations would render this solution ineffective for the short-term, that is, anticipated chancery location requirements for the coming decade. Moreover, an adequate market appears to exist which would accommodate requirements of the

majority of the foreign missions involved, if unnecessary restraints are removed from the ability of such nations to acquire premises for chancery purposes.

With regard to long-term solutions, the Department has entered into discussions with representatives of the District government concerning the possibility of space to be set aside for chancery purposes in planned future urban development areas proximate to the downtown district. In the event that such uses are compatible with urban development planning, the use of eminent determined authority could then be considered as a possible method of acquiring such property. The feasibility of such development however will not effect chancery locations for a substantial period of time.

Question 11. S. 854, the Foreign Missions Act, under Section 206(b) sets forth seven criteria upon which the NCPC must render a decision on chancery applications.

Criteria No. 2 states: "the chancery is in an area (A) of predominantly office use, (B) of mixed use, including residential, commercial, office, or institutional use, (C) of medium or high density residential use, or (D) in reasonable proximity to streets on which existing chanceries are concentrated;"

I note that this subsection does not state "zoned" for predominantly office use, mixed use, medium or high density residential use", nor does it make mention of the Foreign Missions and International Agencies element of the comprehensive plan for the National Capital, adopted by the NCPC on October 6, 1977.

Shouldn't this subsection criteria specifically relate to the existing zones in which chanceries are permitted by law, and to the Federal element of the comprehensive plan which identifies those areas on a map?

Answer. The terms of Section 206(b)(2) in S. 854 would require determinations on chancery locations to be based on a survey of actual existing land uses. In some areas of the city, land use patterns differ from the underlying primary zoning labels. For example, some areas such as the Massachusetts Avenue "Embassy Row" corridor carry an underlying zone for lower density residential use, but also permit certain institutional uses, and in fact for many years have included (more than 50 percent institutional or other nonresidential uses including churches, non-profit associations, chanceries, etc.). Characterizing areas such as this as primarily residential contradicts the actual land use patterns. The requirement that determinations be based on actual land use patterns will facilitate a resolution of current problems, and aid in appropriate planning for chancery areas.

With regard to the Federal elements of the Comprehensive Plan, it was considered inappropriate to specify by statute a particular plan or zone, whether originated by Federal or district agencies. The proposed legislation does not affect existing NCPC statutory responsibility to plan for the Federal uses involved, but does set forth criteria to be employed in connection with such planning activities. The criteria are intended to assure appropriate balance between Federal and municipal concerns, and in order to implement the purposes of this legislation should be required to be taken into account in any planning or zoning subsequent to its enactment.

Question 12. Does the Department believe that chanceries should be treated as "Federal public buildings" for purposes of zoning and that they, therefore, should be free to locate anywhere within the District of Columbia?

S. 854 also repeals the so-called Fulbright Act, which states that chanceries, the office uses of foreign governments, shall be located in medium and high density residentially zoned districts, as well as office district zones, and all other higher use zones.

Does the Department support the repeal of the Fulbright Act?

Answer. S. 854 recognizes the Federal jurisdictional interest in foreign government activities within the United States, including chancery locations. Foreign government chancery facilities are for purposes of section 206 essentially anologous to Federal facilities, although significant differences exist of course with regard to size, appropriate locations, security and other factors. A statute making Federal agencies and chanceries identical for purposes of both planning and location decisions would work conceptually, and could lessen existing jurisdictional conflicts. S. 854 however would establish criteria for chancery decisions, and therefore significantly curtail the areas in which chanceries could locate ascompared to Federal offices, while assuring continued access to areas that are appropriate for security and representational purposes.

The Department supports the approach taken by S. 854 to repeal the so-called Fulbright Act as a necessary part of any resolution of this issue. A strict application of the criteria of that Act would have effectively precluded chanceries from being located in the only areas which are appropriate for such uses, which

are mixed-use lower density areas. Chancery uses in most cases are lower density uses, which for security and related purposes would be most inappropriate for medium-high to high density zoned apartment or commercial areas. Such uses would not only result in a substantial underutilization of and loss of taxable property in higher density zoned areas, but the cost of such property even if available would be beyond the reach of more than 80 percent of the nations represented in Washington who are among the lesser-funded nations of the world. Use of larger commercial office buildings are for the same security and related reasons unacceptable.

The District of Columbia Government in 1979 adopted legislation which would have extended the criteria of the Fulbright Act in a manner which would have impaired the Federal interest, by leaving open for chanceries generally only those areas which are unacceptable for security reasons, such as higher density apartment and commercial office buildings. This led to the first Senate and House concurrent resolution of disapproval vetoing city legislation, since the adoption of the Self-Government Act.

Question 13. Has the Department discussed with representatives of the District Zoning Commission or Board of Zoning Adjustment problems which it perceives in the current zoning process for chanceries? Has the Department expressed its concern with the current process in writing to the Mayor of the District of Columbia or other representatives of the District Government?

Please provide dates and copies of such correspondence.

Answer. The Department has had continuous contact with representatives of the District Government concerning the issue of chancery locations since 1976, when the proposed Foreign Missions element of the Comprehensive Plan was taken up by the National Capital Planning Commission. Views of the District and the Department were exchanged repeatedly during continuous hearings on that element of the Comprehensive Plan until its adoption in 1977, and thereafter during proceedings before the District's Zoning Commission in connection with the adoption of implementing regulations in 1978. Subsequently, representatives of the Department and the District have testified on this subject before both House and Senate Committees, and we believe the views and concerns of each have been fully expressed to the other. In fact, at the request of the Chairman of the House District Committee during a recent hearing on H.R. 3518, which contained the House version of the proposed Foreign Missions Act, representatives of the Department and the District Government again met and thoroughly reviewed these issues.

As a result of this exchange of views, a compromise amendment to Section 206 was offered on the House floor and approved without objection. Although H.R. 3518 was subsequently rejected by the House on nonrelated issues involving fiscal year 1983 budget limitations, a similar bill (H.R. 4814) has been adopted by the House containing the compromise version of Section 206. This compromise would establish a new Foreign Missions Commission of the District of Columbia. Jurisdiction over the location of foreign missions would remain under this compromise in the District Government, subject to the Comprehensive Plan adopted from time to time by NCPC, as authorized under existing law.

Question 14. In what nations has the United States encountered problems in the location, expansion, modification, or use of its chancery?

Please describe the nature of the problem encountered and if and how it was resolved for each nation cited.

Answer. The Department maintains chanceries and other official United States Government facilities in over 250 posts abroad, and problems which have arisen necessarily vary widely both as to cause and degree of difficulty. It is therefore difficult to rank order the problems encountered on a general basis. Information submitted to you previously concerning land use practices in selected countries abroad contains information that we believe will be relevant to your request. We would be pleased to review specific country cases with you at your convenience.

Question 15. In the past 10 years, how many foreign governments have applied for chancery purposes before the Board of Zoning Adjustment and how many have been denied?

Answer. The Department is not involved in all land use applications of foreign governments, and therefore does not generally maintain records of chancery applications before the Zoning Administrator, the Zoning Commission, or the Board of Zoning Adjustment. Testimony and data concerning such applications were provide dby District representatives in hearings on S. 854 before the Foreign Relations Committee. The Department, in its testimony on this subject,

noted that significant problems arose only after the adoption of the existing District Zoning Regulations in 1978, and the adoption by the District of chancery legislation in 1979 which was vetoed by Congress.

Several major chancery cases were decided after issuance of the 1978 District regulations, and were of considerable concern to the diplomatic community and to this Department. These cases involved proposed new or expanded chancery uses on or adjacent to the Massachusetts Avenue "Embassy Row" area. The applications were directly denied in two cases and delayed for a substantial period in the third, which has resulted in the withdrawal by a number of foreign missions of proposals to obtain approval for necessary chancery locations until the position of the United States Government on this matter has been clarified.

Question 16. Have any of the BZA decisions been contested in court? By a foreign government? By the State Department? If so, please describe the appeal and decision.

Answer. The Department of State has not been a party to any litigation in the District concerning chancery land use applications. The application of one government for use of its property directly on Massachusetts Avenue for chancery purposes was subject to judicial process, resulting from its consideration by the Board of Zoning Adjustment. While the Board of Zoning Adjustment ultimately issued an order in favor of the applicant government, the probability of further judicial proceedings has caused that government to withdraw from its planned use of the property, pending a resolution of issues such as this now before the Congress.

Question 17. S. 854 proposes that decisions on chancery locations by the NCPC are not appealable for a Federal court or appeals. Why is this?

Answer. The Department does not construe any provision of S. 854 as rendering nonappealable any decision on chancery locations under the provisions of the Bill, nor would the Department support such a provision. Decisions of the administrative body empowered to rule on chancery locations under the provisions of S. 854 will be subject to judicial review as are such decisions under present regulations.

Question 18. Is the Department aware of the position taken by the NCPC on S. 854 at its June 11, 1981 meeting?

Answer. The Department has been notified of the position taken by the Planning Commission concerning Section 206 of S. 854. A compromise Section 206 recently adopted by the House as part of H.R. 4814 (a substitute Bill for H.R. 3518) could obviate the concern expressed by NCPC, by retaining decisional jurisdiction in the District of Columbia.

In the event that the compromise Section 206 is not acceptable to the Senate, the Department is prepared to explore further alternatives with representatives of the District in order to achieve a balanced process which will fully reflect Federal as well as municipal concerns. This does not mean, however, that the Department now rejects Section 206 as originally proposed in S. 854. It remains the Department's view that the balanced municipal and Federal representation on NCPC, combined with the existing NCPC statutory responsibility for planning for foreign mission locations, renders that agency a suitable organization in which to vest such authority. The need in any event to change the existing process clearly remains, in order to achieve a proper balance between the Federal and municipal governments concerns.

In conclusion, we believe that the proposed Foreign Missions Act contains authorities which will strengthen our national security and which we believe will send a new and needed signal to the many countries with which the United States maintains official relations. We would welcome the opportunity to meet with you to explore these issues fully.

This hearing is adjourned.

[Whereupon, at 12:22, p.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

DEPARTMENT OF STATE,
Washington, D.C., July 23, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate

DEAR MR. CHAIRMAN: In response to your request, we are submitting additional information that has been provided to Senator Mathias in connection with S. 854.

The Administration believes the proposed Foreign Missions Act will create needed federal regulatory authority over activities of foreign government missions to the United States and, additionally, will assist national security agencies in carrying out their functions in this area.

Section 206 of the Bill relates to the location of foreign missions in the nation's capital. The United States Government has an international obligation to facilitate the acquisition of property for chanceries in the District of Columbia under the 1961 Vienna Convention on Diplomatic Relations. The Department of State is severely hampered in its effort to meet this obligation in the nation's capital due to the unavailability of suitable chancery sites because of security, costs, and restrictive zoning problems. Of equal importance, there is a growing need for reciprocity involving the substantial security and other problems of the U.S. missions overseas.

Under current procedures in the District of Columbia, matters concerning foreign mission locations in the nation's capital are resolved by municipal authorities without a balancing of the significant federal interest involved. Section 206 was intended as an effective means, though not the only one which may be possible, of assuring recognition of federal as well as municipal concerns in the following key points:

(1) Criteria for approving foreign mission locations designed specifically to achieve a proper balancing of important federal and municipal concerns;

(2) A decisional body which in its composition reflects both federal and municipal concerns relevant to the issue in Section 206;

(3) Procedures which are both expeditious and compatible with the conduct of our nation's official relations between sovereign countries; and

(4) Availability of lower and medium density mixed-use areas for chancery use—security and representation requirements result in the need to locate such missions in proximity to each other and in areas of lesser density which already contain mixed institutional and residential uses. Space in higher density commercial office buildings which are not security controlled is not acceptable in most cases.

Taking into account these points, the National Capital Planning Commission (NCPC) was perceived as a reasonable means to accomplish the necessary balance, in view of the substantial city as well as federal representation on the Commission, including representatives of the Congress, which retains ultimate responsibility for the District of Columbia. In addition NCPC already by law has responsibility for planning in this area. The Department would like to assure your Committee that we are prepared to continue to explore alternative administrative bodies, as we have already done with city authorities at the request of the Chairman of the House District Committee.

Additional information (enclosed) has been received from our Embassies abroad concerning zoning priorities applicable to certain countries.

The Department requested this information based on published procedures. It is important to note in this regard that the location of foreign mission facilities in most countries is subject to de facto review by national government authorities, whether or not that requirement is set forth in stated procedures. Thus, it is from national ministries that United States Embassies ultimately must seek permission or resolve issues.

It is also necessary, in connection with unclassified replies, to point out that most authorities abroad will not respond directly and on the record to questions concerning special security required of host governments under existing international obligations; nor will they comment publicly on the extent to which these matters may be discussed with foreign embassies, including those of the United States.

Information has also been requested concerning the construction of embassy complexes in Moscow and Washington. These projects have been provided for in bilateral agreements in 1969 and 1972. The 1972 U.S.-U.S.S.R. Agreement states that the chancery facilities will be occupied simultaneously at an agreed date after final completion and acceptance, and that all other buildings may be occupied at any time after completion and acceptance for their designated use.

A subsequent U.S.-U.S.S.R. Protocol to the 1972 Agreement stated the exchange of sites would take place on March 30, 1977, and that the Soviet side could start construction of their residential buildings and related facilities at that time. This Protocol also stated that the construction of the U.S. Embassy complex could begin May 15, 1978 and the target date for the completion of construction of both the U.S. Embassy in Moscow and the U.S.S.R. Embassy in Washington is July 1, 1982.

The Soviet side has completed construction and is now occupying the residential buildings in Washington. The next phase of this project, which consists of the Chancery building and Consulate, is scheduled to be released to U.S. contractors for bids this summer. The time of completion for this work is not yet known.

The U.S. Embassy complex in Moscow is not being built in phases. The residences, related facilities, Chancery building and Consulate are being constructed simultaneously.

The negotiations with the Soviet side on contract terms and price took substantially longer than normal. A contract with a Soviet trade organization was signed June 30, 1979, and the completion date for this work is January 1, 1984. We estimate it will take an additional six months to complete work in the secure areas of the Chancery building. The Soviet contractor is now ahead of schedule on some areas of work and behind in other areas. On the average, the work is five months behind schedule. Problems have arisen from time to time, such as Soviet customs clearance of U.S.-source construction materials, which would require a review from a reciprocity point of view.

The Department would be pleased to provide additional information or to discuss these issues with you.

Yours sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

Enclosure.

ABU DHABI, UNITED ARAB EMIRATE

Question 1. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, but the local government would not act on a matter involving a foreign government without reference to the Foreign Ministry.

Question 2. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 3. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Town Planning Department is an office of the Municipality, members are appointed and serve at the pleasure of the Municipal Director. There is a decree from the Emir which limits all new construction by foreign governments to the Diplomatic Enclave.

Question 4. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. The foreign government must be recognized diplomatically by the host government.

Question 5. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The Town Planning Department has authority to approve building permits for minor projects. If the project would involve the Diplomatic Enclave the building permit is issued by the Diplomatic Enclave authorities. The enclave has a set of rules governing what facilities may be located in the enclave, building heights, setbacks, floor area ratios, parking requirements, exterior walls, fire exits, etc. Plans must be submitted in the English language using the metric scale of 1/100 in three copies.

Question 6. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. All land is owned by the Emir who can sell, lease, or deed to persons or institutions. Non-citizens are not permitted to own land.

Question 7. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. Existing chanceries or embassies may be remain in their present location, new construction must be within the enclave. The sites for each chancery and embassy is chosen by the enclave authorities.

Question 8. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. The Diplomatic Enclave Commission is an office of the Foreign Ministry.

Question 9. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Security was one of the reasons for the establishment of the diplomatic enclave. The Chancery and the Ambassadors residence each have a 24-hour police guard. There have been no notable incidents.

Question 10. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. If the rules supplied by the enclave authorities are followed, building permits can usually be obtained within one to two months. There have been no delays or evidence of unequal treatment by the authorities.

ALGIERS, ALGERIA

Question 11. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, but all levels of government are involved when a zoning question includes a foreign government.

Question 12. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes, by decree 64–259 foreign governments cannot buy, sell, rent, or improve property without authorization of the Foreign Ministry.

Question 13. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The city of Algiers is governed by 12 Communal Peoples Assemblies which act as zoning boards. They are elected for terms of four years from candidates selected by the sole political party and are the local government. Each Assembly is autonomous within its district in matters relating to zoning except in cases where the parcel of land in question is reserved for special use by the State Assembly or the Government of Algeria. Foreign Governments are not permitted to deal directly with the Peoples Assemblys; all contact is through the Protocol Office. There was an attempt to establish a diplomatic community which was abandoned in 1979.

Question 14. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. The Foreign Ministry would require diplomatic recognition prior to granting permission to rent or improve property.

Question 15. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Plans must first be submitted to the Office of Protocol, when approved they are passed to the Wilya (state government) for technical examination. If approved, they are passed to the Peoples Assembly for issuance of the building permit. Complete plans and specifications must be submitted in the French or Arabic languages.

Question 16. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No foreign government has been permitted to purchase land in Algeria since 1962. The Government of Algeria leases publicly owned land to foreign governments for office and residential use. With some exceptions, land owned by foreign governments prior to 1962 has not been expropriated. The Mustapha-al-Rais property was expropriated from the U.S. Government, there is still an outstanding claim against the Algerians.

Question 17. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 18. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. The Protocol Division of the Ministry of Foreign Affairs has responsibility for all real property activities of foreign governments.

Question 19. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Security does not appear to be a consideration in locating diplomatic missions. One policeman is posted near each chancery or residence and police protection is increased during times of unrest. In the fall of 1979 when there were attacks on U.S. Embassies in Tehran, Tripoli, and Islamabad, there were six policemen at the our Chancery and two bodyguards were provided for the Ambassador.

Question 20. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions or embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The Foreign Ministry usually issues approval to lease or improve real property within six months. Delays of up to several years have been encountered because of problems locating sites. It is almost impossible to find out why there are delays in the Foreign Ministry, they could be related to specific nations.

BEIJING, PEOPLE'S REPUBLIC OF CHINA

Question 21. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes. Land use is regulated by a local equivalent of a zoning process.

Question 22. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 23. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Beijing City Planning Commission is composed of representatives of Beijing Construction Units, the Beijing Design Institute, Beijing Exploration Co. and Utility Corp. Members of the City Planning Commission are appointed for indefinite terms by the Beijing Party Committee. Foreign Missions are restricted by local practice to specific parts of the capital city.

Question 24. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Foreign governments seeking building sites must request them from the Chinese government which will offer a lot in an area reserved for diplomatic missions. Options are limited, at best a choice is offered between two sites.

Question 25. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The Beijing Planning Commission must approve the project, and the Beijing Design Institute must review the architecture. All building projects must be developed under the aegis of the Housing Service Corporation (a division of the Beijing Service Corp. for Diplomatic Missions) which exercises absolute control over the work.

Question 26. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. As a general rule, diplomatic missions cannot purchase or own properties in China. Where Embassies move into existing properties, they do so on the basis of leases that extend for varying periods of time. Where Embassies acquire sites and erect buildings to their own specifications, the lease terms will reflect reciprocity considerations. Embassies must normally pay the cost (normally substantial) of relocating any local inhabitants on the site in question. Once built, the Embassy properties may be rent free for periods as long as 60 or 99 years (depending on reciprocal arrangements), but the PRC retains ownership of the properties. Leases on apartments in one of the PRC managed diplomatic apartment buildings are for one year, renewable yearly (in practice they are open-ended and missions remain in apartments indefinitely).

Question 27. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. Foreign missions are restricted more by tradition than law to specific parts of the city. With the exception of the Soviet Embassy, which occupies a compound in a separate part of the city; all diplomatic missions are now located in two distinct diplomatic areas in Beijing's northeastern suburbs. In most cases, the Ambassador's residence is on the same compound with the Chancery building. There are a number of exceptions to this practice therefore it does not appear to be a Chinese requirement.

Question 28. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. In cooperation with the Beijing Planning Commission the Beijing Housing Corp. (BHC), has authority over location, expansion etc. of foreign missions. The BHC is a division of the Beijing Service Corp for diplomatic missions, and the latter is an adjunct of the PRC Ministry of Foreign Affairs.

Question 29. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The PRC feels it is easier to protect foreign citizens by co-locating chanceries and residential compounds. At entrances to all foreign mission chancery or residential compounds there will be anywhere from two to a half-dozen People's Liberation Army (PLA) guards stationed 24-hours a day. With scattered exceptions (e.g., a bomb explosion outside the Soviet Embassy in April 1976 and a peaceful demonstration by local Arab students outside the Egyptian Embassy in 1979) there have been no demonstrations, attacks, etc. against foreign mission properties since the early-seventies. Security is generally adequate.

Question 30. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary

delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Once a site is offered by the HSC and more importantly accepted by the foreign mission (and this can be a lengthy process), site preparation, design work and then actual construction can run from two to five years depending upon whether it is new construction or a modification project. There is a vague pattern, if not a direct correlation, indicating that PRC decisions on diplomatic mission properties can be politically motivated. For example, it is common knowledge in diplomatic community that apartment rents for some third-world missions are lower or even waived in some instances. But in chancery site allocation if extraordinary delays occur (as opposed to normal delays on building projects which also can be extraordinary in the PRC) it is likely that the PRC is dragging its feet to seek leverage and reciprocal treatment for its diplomatic property in the sending state's capital.

BERN, SWITZERLAND

Question 31. Is land use regulated by a local government through zoning or a similar process?

Answer. Yes.

Question 32. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 33. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. There is a zoning commission which is appointed by the Municipal government for terms of four years. Foreign missions are not restricted to certain parts of the city.

Question 34. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 35. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. A building permit, architectural review, and translation of site and building plans are required.

Question 36. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 37. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 38. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 39. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. There are no special security consideration regarding locations in Switzerland. Although the Federal Government is responsible for security, since there are no federal enforcement officials, protection is actually provided by the city police. As a result of recent acts of vandalism at the Ambassadors residence by members of an adjacent youth center, the Bern police have recently provided special round the clock police protection at the residence. Police protection other than roving vehicle patrols is generally not provided unless there are special circumstances.

Question 40. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand

their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Approval for construction of a new building requires approximately six months, major modifications require about three months. Plans which involve new construction are made available for public inspection.

BONN, FEDERAL REPUBLIC OF GERMANY

Question 41. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 42. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifyng their chancery, or mission, and embassy?

Answer. Yes.

Question 43. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. General zoning plans are established by the city administration. When an application for a variance or a building permit is received then a committee of the city council holds a public hearing rules on the application. If approved it is passed to the President of the Provincial Administration who issues final approval. Members of the committee are elected for terms of four years. Chanceries are not restricted to certain parts of the city.

Question 44. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Any foreign government is free to seek and purchase a site as long as the purchase is legally registered in the normal manner. To build, the foreign government must first get the approval of the President of the Provincial Administration then request a building permit. The request must include all plans and specifications in the German language.

Question 45. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. If the FRG has excess property they will lease it, they do not purchase property specifically for resale.

Question 46. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 47. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 48. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nation's chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. In Bonn security is not a FRG consideration in the location of embassys or other diplomatic properties. One unit of the Bonn Police provide coverage for embassys, they have regular patrols with motorcycles, cars and armored cars. The Police are capable of providing a large well equipped contingent in about five minutes. In times of tension temporary 24 hour police posts have been established at various embassys. The last incident was a demonstration by Iranian students in 1979 which was repulsed by the Police. There was an officer on duty at the U.S. Embassy for several weeks after that demonstration.

Question 49. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. If construction is in a developed part of the city permits are usually issued within 3 months. If no master plan for a new area has been approved then permits are delayed pending the acceptance of the master plan.

CARACAS, VENEZUELA

Question 50. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 51. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 52. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Zoning Commission is made up of members who are actually city government employees, their terms are indefinite. Chanceries or foreign missions are not restricted to certain parts of city, but relocation plans are subject to prior approval by the Venezuelan government.

Question 53. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Although certification is not required, a building permit is necessary.

Question 54. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. A local building permit is granted upon presentation of blue prints in Spanish which are certified by qualified Venezuelan civil engineer.

Question 55. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 56. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 57. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 58. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. We are aware of no security considerations regarding location of diplomatic properties. As far as security protection is concerned, the Venezuelan Government provides protection in accordance with Artic'e 22 Paragraph 2 of Vienna Convention. In addition (and for U.S. Mission only) a detachment of National Guard is stationed on the Embassy compound. In regard to incidents there were 2 in the past 5 years, neither was significant.

Question 59. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Approval can usually be obtained in 30 to 90 days. Delay is inherent to the normal process and is not related to specific nations.

DOHA, QATAR

Question 60. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, but for diplomatic missions the only involvement of the local government would be issuance of building permits for minor improvements to leased property. All construction is regulated by the national government.

Question 61. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 62. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. Zoning is regulated by the Government Planning Commission which is staffed by civil service employees. When the new enclave is completed all chanceries and residences will be located there. At present, foreign missions can rent buildings in any part of the city, however they are not to be permitted to build or greatly improve existing buildings outside of the enclave.

Question 63. Does the host nation require a certification of the foreign governments or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes, foreign missions must apply for formal planning approval before beginning construction in the diplomatic enclave.

Question 64. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. All requirements are handled by the Planning Commission Office for Diplomatic Missions. There is a building code which permits submission of plans in English and zoning requirements such as height, number of floors, setbacks, fire/life safety,rules, etc.

Question 65. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. All land in the enclave is owned by the Government of Qatar and will be leased to the foreign missions for up to 50 years.

Question 66. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. The Planning Commission has chosen the site for each foreign embassy and residence, some of these are located on adjacent plots of land. All embassies, ambassador's residences and staff residences will be relocated to the enclave within a few years.

Question 67. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. There is a Planning Commission Office for Diplomatic Missions headed by the Technical Advisor to the Emir. The Emir personally approves all requests for land and all building plans submitted by foreign governments.

Question 68. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Security considerations were not paramount in the Emirs decision to establish the enclave; however, security will be improved due to the limited access to the enclave and its distance from major population centers. The Qatari Police promise to provide immediate response to any call from foreign missions. There have been no incidents in Doha.

Question 69. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The Emir and the Planning Commission encourage construction in the enclave, approvals can be obtained quickly.

GUATEMALA, REPUBLIC OF GUATEMALA

Question 70. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 71. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 72. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Zoning Commission has two members, the Director of City Planning and the Chief of Urban Construction Control Dept. They are appointed by the Mayor for indefinite terms. Diplomatic properties may be located in any part of the city.

Question 73. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 74. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. No foreign mission may own more than eight properties and reciprocity must be guaranteed so that the GOG may purchase an equal number of properties in the foreign capital. Requests for authorization to build must be submitted through the Ministry of Foreign Affairs (MFA) and approved by the Cabinet. Upon receipt of the approval a request for a building permit may be submitted in the Spanish language. It must include architectural, structural, electrical, sanitary, and water plans. It must also show plans for alarm systems, incinerators, and other equipment installed by the Contractor.

Question 75. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 76. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 77. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 78. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nations' security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Most diplomatic missions are located in the new section of Guatemala City where the crime rate is lower than in other parts of the city. All foreign missions have at least one policeman at the chancery and another at the chief of missions residence. In addition the foreign missions may hire Guatemalan policemen and bodyguards directly from the Defense Ministry. The most publicized incident in Guatemala occurred in Jan. 1980 when terrorists took over the Spanish Embassy and held all occupants hostage. The Guatemalan police stormed the building the terrorists set it on fire and killed 39 people including two Spanish diplomats and two Guatemalan officials. Since then three other diplomatic buildings have been bombed. The security offered by the GOG has not been changed since the attacks.

Question 79. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Permission to build can usually be obtained within a month, generally, there have been no extraordinary delays.

HONG KONG

Question 80. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 81. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 82. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Crown Lands Commission acts as the zoning board, it is a branch of the Colonial Government.

Question 83. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 84. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The Crown Lands Commission controls all aspects of construction and maintain a full staff of realtors, architects, engineers, and surveyors. The Commission performs an architectural and technical review prior to issuing a building permit. Plans are in English and must conform to rules issued by the Commission.

Question 85. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. All land belongs to the Crown and is leased from the Crown.

Question 86. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 87. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 88. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Embassies are permitted to locate in any part of the Crown Colony, security is not a consideration of the Colonial Government. There have been no notable incidents. The diplomats receive the same Police protection as all other residents of Hong Kong.

Question 89. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Depending on the complexity of the project issuance of a building permit takes from six months to two years. There have been no extraordinary delays and the normal delays are not related to any specific country.

ISLAMABAD, PAKISTAN

Question 90. Is land use regulated by the local government through zoning or a similar process?

Answer. No, it is regulated by the national government.

Question 91. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer Yes.

Question 92. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. There is no local zoning commission. The Capital Development Authority (CDA), which is an agency of the national government, has responsibility for all land use or zoning in Islamabad. Foreign governments wishing to build must submit all plans to the CDA's Directorate of Architecture for approval. Members of the Directorate are appointed by and serve at the pleasure of the Chief of the CDA. All new diplomatic construction must be inside the diplomatic enclave. All foreign missions are to be relocated into the enclave by July 1982.

Question 93. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Diplomatic recognition is a prerequisite, no other certifications are required.

Question 94. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. None.

Question 95. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. The land within the enclave is owned by the Government of Pakistan (GOP) and is sold to the foreign missions.

Question 96. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. Yes.

Question 97. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. Yes, the CDA.

Question 98. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The GOP has not used security considerations as justification for its request for foreign missions to relocate into the enclave. In November 1979 the Embassy and all other buildings on our compound were burned by a mob, two American died as a result of the attack. The GOP has since assigned 40 Frontier Rangers to the Ambassador's residence and has promised to provide additional troops if needed.

Question 99. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Since the GOP is eager to get embassies to build in the enclave, approval of requests to build is quite rapid.

LAGOS, NIGERIA

Question 100. Is land use regulated by the local government through zoning or a similar process?

Answer. Land use is regulated by the Lagos State Government.

Question 101. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Foreign governments are required to comply with local zoning in locating, building, expanding or modifying their chancery, or mission, and Embassy.

Question 102. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The local zoning laws and regulations are written by staff members of the Lagos State Government who are civil servants. Chanceries or foreign missions are not restricted to certain parts of the capital city.

Question 103. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. A foreign government must be duly accredited before it can seek a site and build on it.

Question 104. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Other approvals required: (1) Certification that all ground rents are paid; (2) Certification that development plans are consistent with local zoning laws; (3) Certification that construction plans are consistent with development plans and that proper foundations are provided that are compatible to soil composition; (4) Building permit; and, (5) All plans must be certified by a local architect.

Question 105. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. Yes, the land use decree of 1978 vested all land in the Governor of that state and such land would be held in trust and administered for use and common benefit of all Nigerians, thus foreign governments may acquire long-term leases for land from the Lagos State Government on which it may build.

Question 106. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. There is no law that chanceries and embassies be located together or in separate locations. There is no set pattern locally.

Question 107. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. The Ministry of Economic Planning and Land Matters, Lagos State Government handles the location, expansion and modification of foreign missions.

Question 108. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. There is no evidence to indicate that Nigera locates foreign missions with security considerations in mind. Allocation of property appears to be a random affair with matters of reciprocity being a prime determining factor. Nigeria does not have a formalized comprehensive plan for the protection of foreign missions. Protection is provided on an ad hoc basis when requested by a particular mission. Response time is slow and mostly ineffective due to manpower and equipment shortage. On 7 January 1980, approximately 20 Nigerian students seized the British High Commission in Lagos. On 6 February 1980, approximately thirty Nigerian students held an anti-Muhammad Ali demonstration at the American Embassy. The demonstrators, who were peaceful in the main, occupied the lobby area for approximately two hours. At the Embassy request, four policemen appeared at the Embassy thirty minutes after the start of the demonstration. An Embassy vehicle had to pick them up at their station and return them there after the incident. On 13 May 1981, approximately 30 Nigerian students staged a peaceful demonstration at the American Embassy in order to voice their opposition to our South African policy. No changes have been made in the Nigerian Government's security protection of foreign missions. Their response continues to be dependent upon manpower and equipment availability.

Question 109. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their Chanceries, Missions, and Embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The time period varies and is dependent upon personal relationships with approving officials and the kind of approval one seeks. Allocation of land may take from six months to one year; site plan approval—six months; building plans approval—six months; approval to modify or expand—six months. Delays are inherent in the approval process.

LILONGWE, MALAWI

Question 110. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes. There are separate areas for residential and office buildings.

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Question 111. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 112. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Town Planning Committee (zoning commission) is comprised of nine members who are appointed by the GOM for indefinite terms. Foreign missions are encouraged to build in zones designated for office buildings, but there is no law on this point.

Question 113. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Diplomatic recognition is required.

Question 114. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The only requirement when applying for a plot or requesting approval for the construction of an Embassy, extension, etc. is the submission of building plans.

Question 115. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. The GOM, through an office of the state government, the Capital City Development Corporation, builds homes and offices for rental or sale to foreign governments and other organizations who do not have their own buildings.

Question 116. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 117. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 118. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Decribe the incident and any resultant changes made in the host nations' security protection.

Answer. Security is not a GOM consideration. The host government can provide police or other protection if required to do so. There have been no demonstrations, attacks or incidents directed against foreign missions.

Question 119. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The normal time to obtain a building permit is six to eight weeks, there have been no extraordinary delays and no delays related to specific nations.

LISBON, PORTUGAL

Question 120. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 121. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 122. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Lisbon city government acts as the zoning commission, the Mayor is elected for a term of three years.

Question 123. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. An official note from the foreign embassy requests approval from the Ministry of Foreign Affairs for the acquisition of the site and the construction of the building. When approved a notice is sent to the municipal government.

Question 124. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The Lisbon Municipality approves building plans for new buildings, modifications, or expansions and issues necessary building permits. All plans and specifications must be in the Portuguese language and in accordance with local regulations.

Question 125. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 126. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 127. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 128. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Chanceries are normally required to be located in the "small Lisbon" area. Depending of the perceived threat, the Portuguese Police provide free uniformed guard services for the chief of mission. Within the last year the Chilean and Brazilian Embassies were bombed. There is a special Diplomatic Protection Brigade in the Portuguese Police.

Question 129. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. If local regulations are closely followed 30 to 90 days should suffice for the issuance of a building permit. The U.S. Embassy is not aware of any extraordinary delays.

LONDON, ENGLAND

Question 130. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 131. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 132. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The local government planning office acts as the zoning commission. The planning office consists of a group of appointed qualified personnel employed by the local government for an indefinite term. The chanceries or foreign missions are not restricted to certain parts of London but most foreign missions choose to be close to the government offices.

Question 133. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 134. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. There are two steps in obtaining permission to build, outline planning approval and final approval. Outline planning approval involves the submission of a written proposal stating the expected use of proposed building to a local government office. Upon receipt of the outline approval, final planning approval would be requested, this involves the submission of detailed architectural drawings detailing size, layout and construction materials to be used.

Question 135. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. Yes, in some circumstances.

Question 136. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 137. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. If approval is not granted by the local government planning office, foreign missions can appeal to the host country's Foreign Affairs Office.

Question 138. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. There are no specific security considerations involved in locating foreign missions, chanceries, and Embassies in the UK. There are numerous demonstrations throughout London, some of them directed against foreign chanceries, etc. The Diplomatic Protection Group (similar to the U.S. Secret Service Uniform Division) augmented by Metropolitan Police has the responsibility for protecting foreign missions and personnel. With the exception of the April-May 1980 takeover of the Iranian Embassy, local authorities have basically controlled demonstrations and potential problem areas. The well-publicized seige on the Iranian Embassy, by the Special Air Services (SAS) in itself has been a deterrent to would-be terrorists. There have been no observable changes in the security protection due to the Iranian Embassy takeover.

Question 139. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. There is no set "time period" for approval from the host government. To a great extent it does depend on the country of origin. According to a spokesman from the Department of the Environment it does depend on the foreign government, i.e., third world countries are experiencing extended delays as opposed to other governments. As a rule, one should allow up to a year for government approval of plans put before the local planning authority including the time to appeal to the host nation's foreign office should the local authority refuse application.

LUSAKA, ZAMBIA

Question 140. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 141. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 142. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Office of the City Council which is staffed by permanent employees acts as the zoning commission. Foreign missions are not restricted to certain parts of Lusaka.

Question 143. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 144. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Permission from the Ministry of Foreign Affairs (MFA) and a building permit issued by the City Council are required.

Question 145. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 146. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 147. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question. 148. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The MFA will not approve location of foreign missions or residences close to sensitive military areas. GOZ security is provided to missions only on request for specific occasions. For example, when demonstration outside British Mission spilled over to American Embassy grounds in November 1979. No other incidents have occurred since November 1979.

Question 149. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The time to receive MFA consent can vary from four months to over one year. Delays are inherent in local red tape and not related to specific nations.

MEXICO, MEXICO

Question 150. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 151. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 152. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. There is no zoning commission but delegations which are sub-units of the city government each have a licensing office which reviews proposals for construction. The members of the delegations are civil servants. Each area of the city is designated for residential or office use and foreign missions must respect the zoning in the location of the chanceries, residences, and other facilities.

Question 153. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes, foreign governments are allowed to own only two properties, the chancery and the ambassador's residence. The Foreign Ministry must certify to the municipal government that any purchase will not violate that principle.

Question 154. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Both the Delegation and the Mayor's office must approve the plans before a building permit can be issued.

Question 155. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 156. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 157. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 158. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The city government does not consider security in deciding where to locate foreign missions. The Police are responsive to the U.S. Embassy and a fixed Police post is established at the Embassy. There are demonstrations at least monthly. Recently a crowd occupied the Embassies of three Latin American countries.

Question 159. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The application by the Canadians to build a chancery required two years, this seems to be the norm. Delays can be attributed to the fragmented nature of the Municipal Government. Mexico.

MOSCOW, U.S.S.R.

Question 160. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, through the executive committee of the Moscow City Council.

Question 161. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes, but the Ministry of Foreign Affairs (MFA) will ascertain whether local zoning regulations have been complied with.

Question 162. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The United States Embassy, like all foreign embassies, can only deal with governmental organizations through the MFA. We do not know who actually decides where foreign embassies may be located.

Question 163. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 164. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The MFA deals with the appropriate governmental agencies the U.S. Embassy has never been informed who reviews the proposals or on what criteria zoning decisions are based.

Question 165. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. The Soviet government owns all real property, it leases but does not sell land.

Question 166. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: Most embassies and chanceries are located in central Moscow probably because of the availability of suitable buildings. Some new chanceries have been built away from the center. There is no requirement that the Ambassador's residence be located with the office building.

Question 167. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. Yes, all services for the diplomatic corps are handled by a branch of the MFA.

Question 168. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Twenty-four hour guards are posted in front of every embassy or chancery. There have been no notable demonstrations, attacks, or other incidents.

Question 169. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Extraordinary delays are routine and are inherent in any nation's dealing with the Soviet Bureaucracy.

NEW DELHI, INDIA

Question 170. Is land use regulated by the local government through zoning or a similar process?

Answer. No, land use is regulated through zoning regulations formulated and administered by the Delhi Development Authority (DDA) which is an office of the Government of India (GOI).

Question 171. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes, but variances can be obtained in special cases.

Question 172. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Advisory council (Zoning Commission) of the DDA consists of 21 members: the chairman of the DDA, Chairman, 2 town planning architects, 4 municipal councilors, a public health official, 3 Commerce and Industry representatives, 4 national Government technical representatives, a representative of the Electrical Department, a representative of the Water and Sewer Department, a representative of the transport Department, 4 Members of Parliament. All members except the chairman and the two architects are appointed by their respective organizations for a term of four years. The chairman is appointed by the Prime Minister and the architects are employees of the DDA. Although New Delhi has a separate area earmarked for the location of diplomatic missions, it does not restrict the missions to that area.

Question 173. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 174. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. There are several municipal authorities which must approve the plans prior to issuance of a building permit, these include the Arts Commission, the City Council, and the Municipal Corporation for Structural, Electrical, Plumbing, and Air Conditioning Installations. Plans must be in English and use the Metric scale, a scale model is also required.

Question 175. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. Land can only be purchased through the GOI.

Question 176. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 177. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. There is no special commission to handle the location, expansion, and modification of foreign missions. The DDA would handle any matter involving a foreign government on the basis of an application received from the Ministry of External Affairs.

Question 178. What security considerations are involved from the point of view of the host nation in locating foreign mission, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The GOI provides either fixed Police posts or roving patrols for all diplomatic missions. There have been no notable incidents.

Question 179. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. Requests normally require from one to three years depending on the nature of the project. The Embassy is not aware of any delays other than the normal delay inherent in any bureaucracy in India.

OTTAWA, CANADA

Question 180. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes. Land use is regulated through zoning by the local government.

Question 181. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 182. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. Zoning by-laws are used for routine matters and considered by the elected city council as a whole. Ad hoc sub-committees are appointed for special considerations. Chanceries or foreign missions are not restricted to certain areas of the capital city.

Question 183. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 184. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. Conformity with local laws and regulations, and concurrence of Department of External Affairs through Protocol and the National Capital Commission (NCCO).

Question 185. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. Not as part of any plan and not for any profit.

Question 186. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 187. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 188. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Security is not a GOC consideration in the location of foreign embassies. Static protection is provided through the Office of Protocol in the Department of External Affairs upon request or through threat analysis. Usually until there is a threat through assessment no stationary protection is supplied. There is a reactionary force composed of RCMP and local police which is readily available. There have been no significant incidents.

Question 189. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. There is no set time limit. But any routine request should be submitted six months in advance and allow for the usual bureaucratic red tape. There is some reciprocity with certain Eastern European nations and other governments.

PANAMA, REPUBLIC OF PANAMA

Question 190. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, land use is regulated by the Municipal government but any matter involving a foreign mission would be sent first to the Ministry of Foreign Affairs (MFA) and if it involved major construction would be sent to the Office of the Head of Government (Gen. Torrijos).

Question 191. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 192. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. There is no elected or appointed zoning commission, all decisions involving zoning or construction are made by the Director General of Urban Renewal. Embassies and residences may be located anywhere in the city.

Question 193. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 194. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. It appears that only a note to the Foreign Ministry informing them of the foreign governments intention to purchase, build, modify or expand real property is needed. Building permits would be issued to the contractor upon presentation of plans and after approval by the MFA.

Question 195. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 196. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 197. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 198. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? De-

scribe the incident and any resultant changes made in the host nation's security protection.

Answer. Security is not a consideration of the GOP in relation to location of embassies. There is one National Guardsman at the U.S. Embassy at all times. There have been three notable incidents in the last nine months; the GOP responded to each but did not change the procedures.

Question 199. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The U.S. Embassy has not requested a building permit in many years. It is understood that they depend upon the relations between the countries and that the time to obtain approval can vary widely. The MFA refused to give the Embassy a definite time frame for issuance of a permit.

PARIS, FRANCE

Question 200. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 201. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 202. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. There is no Zoning Commission. The zoning laws and regulations relate to a master plan known as the "Ground Occupancy Plan for the City of Paris". The plan is the result of a lengthy study by city planners, architects, engineers, and other urban specialists. The current plan became law by a Perfectural Decree dated 28 Feb. 77. Chanceries are not restricted to certain parts of the city.

Question 203. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No, but the Ministry of Foreign Affairs must be officially notified.

Question 204. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. After an architectural review a building permit is issued by the municipal government. Application for the permit must include complete plans and specifications translated into French.

Question 205. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 206. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 207. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 208. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. There are no specific restrictions relative to security in connection with locations of diplomatic establishments. Security protection varies according to the size, importance, and visibility of the diplomatic mission. There have been peaceful demonstrations at various chanceries and diplomatic offices during the past few years, and several diplomatic personnel have been subject to

terrorist attacks. The host government has been very quick to provide additional security protection when the need arises.

Question 209. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The time period required ranges from 3 to 5 months according to the importance of the project and are inherent in the approval process. There are no extraordinary delays and at any rate those delays would not be related to specific nations.

RIYADH, SAUDI ARABIA

Question 210. Is land use regulated by the local government through zoning or a similar process?

Answer. No, by law, all diplomatic missions must be located within the Diplomatic Quarter (DQ). The DQ has detailed zoning regulations which are administered by the High Executive Committee (HEC).

Question 211. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Foreign Governments are required to comply with the regulation of the HEC.

Question 212. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The HEC is composed of the following members: Governor of Riyadh, Chairman; Deputy Governor of Riyadh, Deputy Chairman; 4 Deputy Ministers from functional ministries; the Mayor of Riyadh.

Question 213. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 214. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. None.

Question 215. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. All land in the DQ is owned by the Saudi Arabian Government (SAG) and is leased or sold to the foreign missions through the HEC.

Question 216. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. In the DQ all sites have been selected for the various nations by the HEC. The site selected for the USA has both the Chancery and the Ambassador's residence on the same site.

Question 217. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. Yes, the HEC which reports directly to the Royal Household. All important decisions by the HEC are made in the name of the King.

Question 218. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The SAG will provide adequate Police protection. Security was an important consideration in the establishment of the DQ. There have been no incidents.

Question 219. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The DQ is a new project and no plans have been submitted for approval yet. It is anticipated that approval will be quick because the King has decided that he wants all of the embassies moved to Riyadh in 1983.

ROME, ITALY

Question 220. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 221. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 222. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Building Commission, which approves any new construction project, alterations and additions to existing buildings is made up of the Mayor of Rome, Assessor to the Zoning Plan, Assessor to Urbanistics, Assessor for Building Matters, one representative of the Fine Arts Commission (for the Historical Center of Rome), Chief Lawyer of the Commune of Rome, an engineer of the Rome Fire Department, and a number of engineers and architects who act as consultants. This Zoning Commission is appointed for a period of two years. There are no restrictions by local law to restrict chanceries or foreign missions.

Question 223. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 224. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. A note verbale is submitted to the MFA to inform the Italian Government of the desire to (A) acquire unimproved property to build an office building or residential housing units (B) acquire one or more buildings for offices or residential housing, specifying if modifications and/or additions are planned (C) improve or alter any building already the property of the U.S. Government. For example, this is required for the repainting of the facades of a building. Please note that preliminary approval for any purchase, or sale, of real estate property must be obtained with a decree signed by the president of the Italian Republic. This alone may take from three to six months.

Question 225. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 226. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 227. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 228. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. The security protection afforded foreign missions in Italy varies from Embassy to Embassy. Generally, the Italian police prefer to utilize roving patrols in automobiles rather than fixed outside pedestrian posts. At high risk Embassies the police often utilize a combination of a fixed pedestrian post with a roving patrol as support. At the U.S. Embassy in Rome we normally have a roving police patrol car, in times of increased tensions or anticipated reactions to external events, the police supplement their patrol car with fixed posts. In the past three to four years, the Libyan, Turkish, Syrian and Belgium Embassies have been

attacked by one group or another with resultant injuries and deaths. The Italian Government has asked all foreign missions to provide as much of their own internal security as possible. While they recognize their ultimate responsibility in protecting these missions, they also freely admit that they are short of personnel to deploy in this type of protective duty as their resources are needed in the fight against terrorism and public crime.

Question 229. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The time range is from two to three years from the first note verbale to the foreign office. Yes, there has been some extraordinary delays. The permit to build the Marine Quarters above the Embassy garage area took over five years. This was due to the fact that the Embassy compound is considered an historical site and is located in the historical center of Rome. Delays beyond the two- to three-year period should be anticipated for buildings in the historical center of the city. Delays are not related to any specific nation.

THE HAGUE, NETHERLANDS

Question 230. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes, by the municipal government.

Question 231. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 232. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The municipal government reviews the plans and issues building permits. The municipal officials are elected for terms of four years. Foreign missions may locate in any part of the city.

Question 233. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. Yes.

Question 234. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer. The foreign mission must get a building permit, plans must be submitted in the Dutch language and an architectural/structural review is required.

Question 235. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. Yes.

Question 236. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No, but they must be within the city limits.

Question 237. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. The Protocol Office of the Ministry of Foreign Affairs handles matters relating to construction and real estate.

Question 238. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. Security is not a consideration in regard to the location of foreign missions. The city government provides Police protection as required. There have been no significant demonstrations or incidents.

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Question 239. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. For small projects approval is swift, if a project involves new construction the approval process could be very lengthy. Delays would be due to the process not related to specific nations.

TOKYO, JAPAN

Question 240. Is land use regulated by the local government through zoning or a similar process?

Answer. Yes.

Question 241. If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer. Yes.

Question 242. If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission? Is it appointed or elected? For what term? Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer. The Zoning Commission is composed of 5–7 members appointed by the head of the city for terms of two years. Embassies are not restricted to certain parts of the city.

Question 243. Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer. No.

Question 244. What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions. and embassies?

Answer. City fire code; land utilization law; structural review in case of highrise; neighbor's consent with regard to the environment annoyances and/or pollution attributable to the construction.

Question 245. Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer. No.

Question 246. Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer. No.

Question 247. Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer. No.

Question 248. What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries? Describe the host nation's security protection for foreign governments located there. Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer. From a security point of view, there is no host government involvement in selecting locations for foreign diplomatic missions in Japan. Security protection is provided to missions based on the Japanese perceived threat level, currently only the U.S., Korea and U.S.S.R. receive protection. There have been no notable incidents affecting U.S. facilities since 1974.

Question 249. What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies? Have there been any extraordinary delays in the process? Are those delays inherent in the approval process or related to specific nations? Describe the extraordinary situation.

Answer. The building code stipulates that the building officials shall notify the applicant in writing within 21 days from the day of the receipt of the application.

THE LIBRARY OF CONGRESS,
Washington, D.C., June 2, 1981.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate, Subcommittee on Governmental Efficiency and the District of Columbia, 6222 Dirksen Building, Washington, D.C.

DEAR SENATOR MATHIAS: The staff of the Law Library has researched local zoning in selected world capitals and its relationship to foreign governments wishing to locate chanceries, missions, and embassies there. This is in response to your May 5 request addressed to Mr. Gilbert Gude, Director of CRS's Congressional Research Service, and the specific questions posed therein.

The enclosed reports on Canada, the Federal Republic of Germany, France, Guatemala, Hong Kong, India, Italy, Japan, Mexico, The Netherlands, Panama, the People's Republic of China, Portugal, Switzerland, the United Kingdom, the U.S.S.R., and Venezuela cover available information concerning your questions regarding diplomatic reciprocity in locating foreign chanceries, missions, and embassies. No information on this subject can be located in the Law Library for Middle East and African countries.

Please let us know if we can be of further assistance.

Sincerely,

CARLETON W. KENYON,
Law Librarian.

Enclosures.

OTTAWA, CANADA

The City of Ottawa, which has a population of approximately 300,000, has been the capitol of Canada since Confederation in 1867. The city lies entirely within the Province of Ontario and has its own municipal government. The laws and policies to the locating and operations of embassies and chanceries are as follows:

1. *Zoning laws.*—Under the authority conferred upon it by the provincial government, the City Council of Ottawa has enacted zoning by-laws setting out rules for the construction, location, maintenance, and use of buildings in the city. These planning regulations provide that all public buildings must be located in those areas designated as the "G" zones. Generally speaking, these areas encompass the extensive federal lands along the Ottawa and Rideau Rivers which flank the city as well as the downtown core located directly across from the Parliament and Supreme Court Buildings.

2. *Applicability of Municipal By-Laws to Foreign Embassies and Chanceries.*—Chanceries, the offices of foreign governments, and embassies, the residences of ambassadors, are subject to the general by-laws of the City of Ottawa, instead of being exempted or subject to a special set of rules. Thus, in constructing, expanding, or using a building, foreign countries are required by law to follow the municipal rules. For example, a chancery must be located in a "G" zone under the Ottawa by-laws. However, while they are subject to the municipal laws, the city has no means to enforce compliance as Canadian courts would respect the doctrine of sovereign immunity. In fact, there have been several publicized cases in which foreign countries have broken the by-laws without suffering any consequences for their actions. For example, several Eastern European countries have erected high fences around their buildings that are of a type not permitted by the local by-laws. Furthermore, several countries have opened up combined chanceries and embassies that are located outside of the "G" zones. Nevertheless, all of the major developed countries have complied with the local zoning laws and, in practice, have located their chanceries near the downtown area and their embassies in the neighboring suburb of Rockcliff Park. Under Canadian law, both one chancery and one embassy are exempted from paying local taxes.

3. *Local Government.*—The City of Ottawa has a City Council made up of 16 members, including a mayor, who serve two-year terms. The municipal government must approve all changes to the local by-laws. In formulating its policies, the City Council is assisted by four standing committees. The administration of the by-laws is overseen by the Administration Policy and Priority Board, (formerly the Board of Control).

4. *Federal Approval of Building Sites.*—There is no provision in any statute or regulation of the federal government that requires foreign governments to obtain approval to seek and build on a site. However, in a booklet on "Privileges

Granted to Diplomatic and Consular Representatives in Canada," the Department of External Affairs, (which corresponds to the Department of State in the United States), has stated its policy as follows:

PURCHASE AND SALE OF LAND AND REAL PROPERTIES

No foreign government should buy or commit itself to buy land and/or real property in Canada without the previous concurrence of the Government of Canada. When asking for concurrence, the missions are requested to indicate where the property in question is located and for what purpose it will be used. If the property is situated in the Ottawa-Hull area, and if it is to be used as the official residence of the Head of Mission or for chancery purposes, the Government of Canada will normally give its immediate concurrence provided that the use to which the property will be put is not in contravention of the zoning laws of the municipality concerned. When it gives its concurrence to the purchase of property to be used as the official residence of the Head of Mission or for chancery purposes, the Government of Canada will, on the basis of reciprocity, provide exemption from municipal and school taxes. The exemption applies from the time the foreign government takes physical possession of the property in question and the former occupants leave the premises. (It is not possible for the Government of Canada to provide reimbursement of taxes prepaid by vendors of property sold to foreign governments. The parties concerned should therefore take this factor into account during the negotiations leading to the purchase of the property).[1]

Thus, the federal government does have a policy of requiring approval before foreign countries may purchase land and build a chancery or embassy. If a foreign government were to fail to obtain approval, the government would have no recourse to the courts; however, it might seek to block the transfer of title or make a diplomatic protest.

5. *Construction of Buildings.*—In Ottawa, permits are required under the by-laws for any construction or expansion of a building. In reviewing the application, the zoning commission does assess the appropriateness of the proposed structure and will make recommendations for changes to be made. For example, the recently completed Embassy of Japan was the subject of many negotiations between the local government, the National Capital Commission (representing the federal government), and the Government of Japan as the Canadian authorities did not feel that the original proposals were compatible with the area.

6. *Purchases of Land.*—Historically, most chanceries and embassies in Ottawa were built on lands purchased from the federal government as foreign nations wished to be located fairly near one another and close to the main government building. For example, the United States Embassy is presently located directly across the street from Parliament Hill. (The United States, however, has agreed with the Government of Canada to exchange this property for another that is larger but farther away from the downtown core). Thus, the federal government has traditionally assisted foreign countries in finding a site and has sold property to those countries. In the past several years, however, the federal government has stopped selling federal lands and begun leasing properties for 99 year terms. The reason for this is that there were protests in Canada against foreign ownership of lands along the rivers.[2]

7. *Embassies and Chanceries.*—As was mentioned previously, most developed countries have separate embassies and chanceries in the Ottawa region while several developing countries have a combined mission.

8. *The National Capital Commission.*—In 1959, the federal government established the National Capital Commission which is responsible for the acquisition, development and maintenance of public land in the capital region. The members of this Commission are appointed by the Government of Canada and represent each of the provinces. When a foreign country wishes to establish a chancery or embassy on federal lands, the Commission reviews the suitability of the site and the appropriateness of the architectural plans in conjunction with the municipal authorities. This often leads to negotiations between the Commission and foreign governments, as was the case with the new Embassy of Japan.

9. *Security.*—In Ottawa, the Protective Control Branch of the Royal Canadian Mounted Police and the Ottawa Municipal Police both provide security for

[1] Canada, Department of External Affairs, "Privileges Granted to Diplomatic and Consular Representatives in Canada and General Information Booklet" 15–16 (Ottawa, 1979).
[2] Information obtained from the Department of External Affairs, Ottawa.

embassies and chanceries. There have been no notable attacks on any foreign missions in Canada though, of course, many embassies have been the scene of political demonstrations.

Federal Republic of Germany

Responses to questions 1–11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1.—In the Federal Republic of Germany, land use is regulated by zoning. Federal law provides the framework of rules governing the issuance of zoning plans but directs the local governments to actually issue them.[1]

Question 2.—Foreign governments are required to comply with the local zoning laws in locating, building, expanding, or modifying their missions. This conclusion is reached from the general applicability of the zoning laws and the absence of any statutory pronouncements exempting foreign governments. Also, there is no legal literature indicating that the Vienna Convention on Diplomatic Relations[2] is construed in the Federal Republic to afford immunity from the application of zoning laws.

Question 3.—In Bonn, the agency in charge of zoning issues is the Council of the City of Bonn (Rat der Stadt Bonn). The Council is elected by popular vote for a period of 5 years, and it is the government of the city of Bonn.[3] Zoning plans issued by the Council must be approved by the Land Nordrhein-Westfalen (one of the constituent states of the Federal Republic) through the *Regierungspräsident Köln*, who is the official in charge of the district of Cologne.[4] Whenever zoning laws are issued or changed, advance notice must be given to the population in accordance with Federal law, and concerned persons are given an opportunity to voice their objections.[5] Aside from the general zoning plans, which may restrict office buildings from residential areas,[6] foreign missions are not restricted by Bonn zoning law to particular locations.[7]

Question 4.—There are no legal provisions indicating that a foreign government must be recognized or obtain special certification before being permitted to seek a site and to build on it.[8]

Question 5.—A building permit from the City of Bonn is required for any construction, modification, expansion, change of use, or demolition of a building.[9] The application for the permit must contain all the required documents and information, and the permit will be granted if it complies with all the legal requirements.[10] These legal requirements are manifold: they cover zoning, environmental, safety, and other aspects and are contained in more than 1,000 legal provisions found in more than 100 statutes, ordinances, etc., and in over 100 industrial standards.[11] The application and all the documents submitted must be in German.[12]

Question 6.—The Federal Republic does not purchase property for purposes of reselling or leasing it to foreign governments.[13]

Question 7.—The preponderant majority of embassies and chanceries are located in the Bad Godesberg district of the City of Bonn.[14]

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[1] Secs. 1 through 13, Bundesbaugesetz [BBauG] in the version of August 18, 1976, Bundesgesetzblatt [BGBl., official law gazette of the Federal Republic of Germany] I, p. 2256.

[2] 23 U.S.T. 3227; T.I.A.S. 7502; 500 U.N.T.S. 95.

[3] Secs. 27–56, Gemeindeordnung für das Land Nordrhein-Westfalen in the version of December 19, 1974, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen [GVNW, official law gazette of Nordrhein-Westfalen] p. 91/1975.

[4] Sec. 8, Landesorganisationsgesetz vom 0. Juli 1962, GVNW, p. 421/1962. For the practice in Bonn, *See* for instance, the Promulgation of January 14, 1982, Amtsblatt der Stadt Bonn, p. 19/1972.

[5] Sec. 2, BBauG.

[6] Zoning plans are not published, but they can oe viewed by anyone in the city's surveying office: see supra note 4, Amtsblatt.

[7] No such restrictions were found in local, land, or Federal law. Although the local laws of Bonn could not be reviewed completely (of the volumes issued since 1949, only the years 1972–1976 are available in the Library of Congress), officials at the Embassy of the Federal Republic of Germany state that no such restrictions exist.

[8] Information obtained from the German Embassy indicates also that such requirements do not exist.

[9] Secs. 76–77, Bauordnung für das Land Nordrhein-Westfalen in the version of January 27, 1979, GVNW, p. 96/1970.

[10] Id., secs. 80–92.

[11] K. Walper, Einführung in das Bauordnungs: und Bauplanungsrecht 56 (Wiesbaden, 1977).

[12] Sec. 23, Verwaltungsverfahrensgesetz vom 25. Mai 1976, BGBl. I, p. 1253.

[13] Information obtained from the German Embassy.

[14] Id.

Question 8.—The agency in charge of assisting foreign governments in the location and establishment of their missions is the Protokoll des Auswärtigen Amtes (Office of the Protocol of the Federal Ministry of Foreign Affairs).[15]

Question 9.—Information not available.[16]

Question 10.—Information not available.

Question 11.—Not applicable.

FRANCE

Responses to questions 1–11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1.—Land use in France is regulated through zoning laws of national application within the Code de l'urbanisme.

Question 2.—Foreign governments are required to comply with local zoning regulations in locating, building, expanding, or modifying their chancery, mission, or embassy.

Question 3.—The members of local zoning commissions in France are appointed for unspecified terms. Chanceries or foreign missions are not restricted to certain parts of Paris.

Question 4.—Information not available.

Question 5.—Foreign governments must obtain a local building permit for the location, construction, modification, or expansion of their chancery, mission, or embassy. The application for the building permit must include a description of the intended site and the building plans in the French language.

Question 6.— France does not deal in real estate transactions, but it will assist foreign countries in acquiring land or suitable space for purchase or in locating premises for chancery, mission or embassy purposes.

Question 7.—It is neither common practice nor required by law for chanceries and embassies to be located in the same vicinity rather than in separate locations in Paris.

Question 8.—The French Government does not have a special commission or agency to handle the location, expansion, modifications of foreign missions. This is within the responsibilities of the Foreign Office.

Question 9.—France has the duty to protect diplomatic buildings, but no particulars are available. Insofar as is known, there are no defined areas for protecting at least the business activities of foreign governments, as is the case under the Executive Protection Service in Washington, D.C.

Although there have been demonstrations and attacks in Paris involving chanceries and embassies, no information regarding them is available. Whether these incidents have led to changes in the security protection of diplomatic buildings is not known.

Question 10.—Information not available.

Question 11.—Not applicable.

GUATEMALA

Congressional Decree 616 of May 7, 1948, on the Acquisition of Urban Property for Diplomatic Residences[17] contains the following provisions relating to the premises of foreign missions:

Art. 1.—Foreign states and other entities having internationally recognized legal status may, with the authorization of the Ministry of Foreign Affairs, acquire real estate in Guatemala for the exclusive purpose of using it as the official premises of their permanent diplomatic missions accredited to the Government of the Republic and may similarly acquire a residence for the chief of their missions.

Art. 2.—It shall be optional for the Ministry of Foreign Affairs to grant or refuse the authorization mentioned in the above article. The requesting foreign state shall guarantee reciprocity for the State of Guatemala to acquire real estate in the requester state's territory for the same purpose.

Art. 3.—The Registrar of Property shall not record any transaction in favor of a foreign state or international organization without previously having a

[15] 1 Die Bundesrepublik Deutschland. Staatshandbuch 62 (Köln, 1977).

[16] Officials at the German Embassy indicate that security issues regarding the location of foreign missions may be handled in informal consultations between the Office of the Protocol, the foreign government, and the police. Although incidents involving the security of foreign missions have occurred in the past, an account of them is not available either in the sources of the Library of Congress or of the German Embassy. Such information possibly might be obtained by a request made through diplomatic channels.

[17] El Guatemalteco, June 27, 1949.

transcript of the resolution in which the Ministry of Foreign Affairs grants the authorization.

Art. 4.—This Decree repeals all other provisions on this matter and shall be in force from the date of its publication in the official gazette.

No other specific provisions in regard to the acquisition, building, and zoning regulations for the premises of foreign missions under Guatemalan law have been found other than those general provsions of the Municipal Code of December 17, 1975,[18] which entrusts urban development to municipalities, in all aspects regarding zoning, building permits and plans.

The building regulations of Guatemala City adopted on April 10, 1970 established the general provisions regarding construction in Guatemala City. The mayor and all other members of the municipal corporate government are elected by direct and popular vote.

The long history of political violence in Guatemala has also touched foreign diplomatic missions in recent years. In 1968, the United States Ambassador to Guatemala, John Gordon Mein, was assassinated, and in a more recent episode, Spain broke diplomatic relations with Guatemala after Guatemalan police stormed its embassy to evict the occupying Guatemalan citizens in January of 1980.

Hong Kong

The Consular Relations Ordinance of Hong Kong, promulgated in 1970,[19] gives effect to Hong Kong to the Vienna Convention on Consular Relations, and in addition enables effect to be given there to other agreements entered into by the Government of the United Kingdom concerning consular relations, Hong Kong being a British Crown Colony.

1. Land use in Hong Kong is regulated by the Governor in Council with the advice of the Town Planning Board, according to the Town Planning Ordinance of 1939, as amended from time to time up to the present.[20] The Board is empowered to make provisions for zones or districts set apart for use for residential, commercial, industrial or other specified uses, and prepares draft plans for urban areas. Upon the submission of such draft plans to the Governor in Council, he may approve them, refuse to approve them, or refer them to the Board for further consideration and amendment.[21]

2. Nothing in the Consular Relations Ordinance nor in the Town Planning Ordinance indicates that foreign governments would be exempted from complying with local zoning laws in locating, building, expanding or modifying their buildings in Hong Kong. No further information on this question could be located in any other source.

3. The Town Planning Board, the body responsible for urban planning in Hong Kong, is appointed by the Governor. In 1979, it consisted of fifteen members, seven of whom were appointed *ex officio*, and the rest personally. The term of the appointments was not stipulated.

4. No information is available on this question.

5. Certain approvals are required of all individuals or bodies seeking to construct new buildings in Hong Kong. The Buildings Ordinance of 1955, as amended up to the present time, requires approval and consent to be obtained from the Building Authority before commencement of construction works.[22] The Building Authority, defined in the ordinance as the Director of Public Works, gives its approval in the prescribed form of documents submitted to it in accordance with the regulations in force, and its consent in the prescribed form for the commencement of the building work shown in the approved plan. Such approval and consent are deemed to be given unless the applicant is notified of the Building Authority's refusal.[23]

6–10. No information is available on these questions.

India

Every foreign government, recognized by the Government of India, may establish its chancery, embassy or any mission in New Delhi, the capital of India. Once

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[18] Constitución, Códigos y Leyes de la República de Guatemala 1277 (1 ed. Editorial Gomez Robles, 1981).
[19] 15 Laws of Hong Kong, ch. 259 (rev. ed. 1970).
[20] 8 Laws of Hong Kong, ch. 131 (rev. ed. 1974).
[21] S. 3, Id. at 2.
[22] 7 Laws of Hong Kong, ch. 123 (rev. ed. 1974), s. 14, p. 17.
[23] S. 15(1), id.

the foreign government or its accredited representative makes a request for locating its diplomatic premises at a particular site, the host government will attempt to either acquire the site or building premises, if it is available, or allow the foreign mission to negotiate on its own directly with the private owner.

Specific answers to the questions have been provided in the same order:

1. Land use is not regulated by the local government. It is, in fact, regulated by the Government of India through an independent statutory corporate body, the Delhi Development Authority.[24] This Authority prepares the master plan for the city having different zones for which separate zonal development plans are prepared.

2. There is no specific exception in the statute or the provisions of zonal development plan excluding the foreign governments from complying with the requirements of the plan in erecting their building premises, or in expanding or modifying them. The building must follow the use earmarked in the zonal development plan. However, a chancery may take on lease any premises from a private owner after approval of the host nation.

3. A zonal development plan is prepared by the Delhi Development Authority, a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract in its name. It can sue and be sued. It is a statutory agency, and as the composition of its membership would disclose, it is controlled mostly by the nominees of the Government of India in such a manner that shows that the host government retains control of it. The composition of the Authority is as follows:[25]

(a) The administrator of the Union territory of Delhi is the chairman of the Authority. He is a civil servant of the government.

(b) The following four members are also appointed by the Central Government: (i) A vice chairman; (ii) a finance member; (iii) an accounts member, and (iv) an engineer. They hold office during the pleasure of the government and may be removed any time.

(c) Two representatives of the Advisory Committee of the Union territory of Delhi constituted by the Government of India. They hold office so long as they are members of the committee.

(d) Two representatives of the Municipal Corporation of Delhi elected by the councillors and aldermen of the Corporation from among themselves. Basically they are elected for a term of 4 years and are eligible for reelection.

(e) Three other members are nominated by the Central Government. One of such nominees must be a person with experience in town planning or architecture.

(f) The Commissioner of the Municipal Corporation of Delhi.

4. A foreign government, to be able to establish its diplomatic premises, must be recognized by the host nation before it can seek a site and build on it.

5. No person, including a foreign mission, may erect a building or commence its erection or execute any of the appurtenant works except with the previous sanction of the Commissioner of the Delhi Municipal Corporation, not otherwise than in accordance with the by-laws enacted in relation to the erection of buildings or execution of works.[26] A written notice in the prescribed form must be given to the Commissioner of the Corporation before commencement of any works and the notice must be accompanied by a plan signed by a licensed architect or engineer.[27] The fees payable in respect thereof are nominal.

6. The government may either acquire the required site for the use of the foreign government or allow it to obtain the site on lease.

7. It is not necessary for chanceries and embassies to be located together. It is a choice of the foreign government.

8. The Division of Protocol of the Ministry of External Affairs of the Government of India receives and deals with all requests of the foreign governments in this regard.

9. Protection of diplomats' lives and the property of foreign governments play a major role in planning the locations of foreign missions. At present, the principal chanceries are located within the exclusive Diplomatic Enclave where there is hardly any density of population. Consequently, demonstrations are infrequent and visitors can be more easily screened. Even though a mission is

[24] The Delhi Development Act, 1957, No. LXI, § 3.
[25] Id. Section 2(3).
[26] The Delhi Municipal Corporation Act, 1957, No. LXVI, § 333.
[27] The Delhi Municipal Corporation Building By-Laws, No. 6.

free to choose its area of location, permission is not generally given for its location in certain areas where the population is dense.

10. The approval time range is very variable. It may depend on the time period for acquisition and also in negotiations with owners.

ITALY

Responses to questions 1–11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1.—Land use in Italy is regulated by laws of national application, especially by the Law of August 17, 1942, No. 1150, as amended by the Law of August 6, 1967, No. 765. It regulates building processes on national, intercommunal, and local levels.

Question 2.—Foreign governments have to comply with the existing building regulations.

Question 3.—Building commissions are appointed and are under the control of the particular city, in this case Rome. All licenses to build, expand, etc., are issued by the city under the authority of the mayor. Foreign missions are not restricted to any particular part of the city.

Question 4.—Since private persons may own land and build on it, any government can build as a private person.

Question 5.—A local building permit is issued under consideration of all aspects of the proposed building, including the architectural merit of the design and proper zoning. No other permits are required.

Question 6.—The Italian government does not interfere with the acquisition of space, buildings, or premises by foreign governments for their missions. It will assist foreign governments in obtaining building space or premises for purchase or lease.

Question 7.—Foreign missions are free to reside anywhere throughout the city. Foreign missions in Rome are scattered all over the city.

Question 8.—Not known.

Question 9.—Not known.

Question 10.—The mayor of any Italian city has to grant or refuse a building permit within 60 days from the request (art. 31, Law of August 17, 1942, No. 1150, as amended). Although no special delays are to be expected, there is always an uncertain time element in the bureaucratic process.

Question 11.—Not applicable.

JAPAN

1. Land use in Tokyo is regulated by the Tokyo Metropolis Government under the City Planning Law, the Building Standards Law, and various metropolitan ordinances and regulations.

2. Any foreign government desiring to obtain a location for, build, expand or modify its chancery or embassy is required to comply with those parts of the above laws, ordinances and regulations that deal with zoning. Under the City Planning Law, Tokyo Metropolis is divided into eight types of zones: (1) the first class exclusively residential zone (largely in the suburban area); (2) the second class exclusively residential zone (usually in the vicinity of the city where railways or subways are easily accessible); (3) the residential zone (where residences and stores or small-scale factories are scattered along principal highways and in commercial and industrial areas); (4) the neighborhood commercial zone; (5) the commercial zone; (6) the quasi-industrial zone; (7) the industrial zone; and (8) the exclusively industrial zone.

The location of residences, apartment buildings and residence/offices (foreign chanceries and embassies fall into this category) is permitted in all zones except the exclusively industrial zone. In the first class exclusively residential zone, the height of buildings cannot exceed 10 meters unless an exception has been approved by the governor. The allowable height of the buildings in other zones is determined by a formula based on the ratio of the building's aggregate floor space to its plottage, but restrictions on height may be imposed in certain designated areas for reasons including the amount of shadow and sunshine. For residence/offices, the office space must be less than half of the residential space, and the total floor space of the office area cannot exceed 50 square meters. Exceptions to this rule may be approved by the governor. The location of foreign missions is not restricted to certain parts of the city.

3. Zoning regulations are administered by the governor of Tokyo. Tokyo does not have any organ equivalent to the zoning commissions that one finds in the United States. The Tokyo Metropolis City Planning Council is an advisory organ established within the Tokyo Metropolis Government to assist the governor with

matters relating to overall city planning, including zoning. The council consists of 35 members who are appointed by the governor.

4. Under the Cabinet Order Concerning the Acquisition of Real Property and/or Rights thereto by Foreign Governments, any foreign government that has been specified by the Ministry of Finance and that maintains normal diplomatic relations with Japan may acquire or lease land, buildings or accessories to such property without special permission from the Ministry of Finance. As of 1978, 143 countries had been specified by public notice issued by the Ministry of Finance. Any foreign government that has not been specified by Japan's Ministry of Finance, however, must obtain permission from the Minister of Finance to acquire or lease land, buildings or accessories thereto.

5. Any foreign government which intends to build, modify, expand, or undertake large-scale repairs or modeling of buildings, must submit a written application giving evidence that its construction plan conforms to the provisions of the Building Standards Law and Tokyo ordinances and regulations. Both the governor and the building officer of the Tokyo Metropolis government must confirm the application prior to the commencement of construction. The applicant must pay a fee proportionate to the aggregate floor space of the proposed construction as provided by Cabinet Order.

The building officer shall not grant confirmation unless he has obtained the consent of the Fire-Inspector having jurisdiction over the construction work.

6. Any foreign government which has no diplomatic relations with Japan and has not been specified by the above Cabinet Order cannot directly contract with a private owner (including those persons possessing rights to real property) for the acquisition or lease of property. Although such foreign government may negotiate and reach prior agreement with the owner as to price, rent, or other terms of the transaction, the Japanese Government must act on the behalf of the former in acquiring and leasing real property from the owner. Pursuant to the prior agreement, the foreign government must apply for validation from the Minister of Finance. Upon granting the validation, the Minister of Finance acquires the title or the lease to the real property from the owner and then transfers or subleases the real property or rights thereto to the foreign government. However, such foreign government can acquire government-owned property directly from the Japanese Government with the approval of the Minister of Finance.

7. Japanese law does not require that foreign chanceries and embassies be located in a circumscribed area designated for foreign missions. In practice, foreign chanceries and embassies are scattered throughout the city.

8. There is no special commission or agency to handle the location, expansion and modification of foreign missions.

9. Information about Japan's security protection for foreign chanceries and embassies generally is not available. However, several massive demonstrations have taken place in Tokyo. Major issues that sparked the riots included President Eisenhower's scheduled visit to Japan in connection with the 1960 renewal of the US-Japan security treaty, the retention of Okinawa by the United States, the war in Vietnam, the presence of United States military bases in Japan, visits by United States nuclear-powered submarines to Japanese ports, and other These demonstrations did not involve attacks against the United States Embassy, but they did affect United States-Japanese relations.

There are 95 police stations (about 42,600 police officers) in Tokyo, and each station has under its jurisdiction an average of 13 smaller units known as police boxes. Each police box is manned by about 10 police officers who are responsible for the maintenance of public safety (including security protection for foreign embassies) within the assigned area. In addition, special riot police units known as *kidōtai* are given assignments that include controlling Japan's massive and often violent demonstrations. It has been reported that the *kidōtai* are among the most experienced, best trained, and best disciplined police in the world.

There are no Tokyo ordinances specifically banning demonstrations close to foreign chanceries and embassies. Nevertheless, according to a source in the Japanese Embassy in Washington, D.C., foreign missions are well protected by the police boxes and the *kidōtai*. The United States Embassy is especially well-protected since a permanent police box has been established in front of the Embassy compound.

10. Information about the amount of time required for granting the necessary approvals to foreign governments in locating, modifying, or expanding their chanceries and embassies is not available.

Mexico

The acquisition of real estate by foreign governments in Mexico for the purpose of setting up embassy or chancery buildings in that country is primarily subject to the discretionary authorization of the Secretariat of Foreign Affairs by the principle of reciprocity with regard to the requesting country. This matter appears to be governed by the following laws.

The Constitution of Mexico of 1917 [28] presently in force, provides:

Art. 27: I. . . .

Paragraph 2.—The State, in accordance with its internal public interests and with the principle or reciprocity, may, at the discretion of the Secretariat of Foreign Affairs, authorize foreign states to acquire, at the permanent sites of the Federal Powers, private ownership of real estate necessary for the direct services of their embassies or legations.

The Vienna Convention on Diplomatic Relations of April 18, 1961[29] of which Mexico is a signatory, was approved by the Mexican Senate pursuant to the provisions of the decree published in the *Diario Oficial* of February 20, 1965. Article 21 of the Convention provides:

Art. 21:

1. The receiving State shall either facilitate the acquisition of premises on its territory, in accordance with its laws, by the sending State necessary for its mission or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

Concerning security considerations, the Convention provides:

Art. 22:

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

The Federal District of Mexico is a political jurisdiction of that country acknowledged under the provisions of Article 43 of the Constitution.[30] The government of the Federal District, as provided under Article 73–1 of that document, is entrusted to the President of the Republic, who exercises it through the organ or organs prescribed by law. This regulatory law is the Organic Law of the Department of the Federal District of December 27, 1970.[31] Under the provisions of Article 1 of the Law of December 27, 1970, the powers of the President are exercised through the Chief of the Department of the Federal District, who is a presidential appointee. Also, under the provisions of Article 34 of the Law on Urban Development of the Federal District of December 30, 1975,[32] all construction in that jurisdiction is subject to the provisions of the Urban Development Plan of the city. In addition, construction is also subject to zoning regulations as provided in the Zone Regulations for the Territory of the Federal District approved on November 19, 1976.[33]

In view of the above, the questions raised in the letter of inquiry may be answered as follows:

1. Land use is regulated by the local government by means of the Urban Development Plans and Zone Regulations.

2. Apparently, foreign governments are required to comply with the provisions of the above cited regulations.

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[28] Constitution of Mexico, 1917 (Washington, D.C. General Secretariat, Organization of American States, 1972).
[29] 23 UTS 227, TIAS 7502, 500 UNTS 95.
[30] Supra note 1.
[31] Supra note 2.
[32] Diario Oficial [D.O.], December 29, 1970.
[33] D.O., November 23, 1976.

3. The zoning commission is an appointed local organ, usually for the term of the appointment of the Chief of the Department who, in turn, is appointed by the President. Chanceries and foreign missions must comply with Urban Development Plans and Zoning regulations, thus, they are restricted to certain areas of the city where these types of buildings may be constructed.

4. No regulations have been located answering this question. Presumably, accreditation before the host nation is sufficient for the Secretary of State to consider a land request.

5. No specific answer is available on this question. Presumably, together with the authorization issued by the Secretary of Foreign Affairs, local building permits, translation of site and building plans into the language of the host nation and other local nations must be secured.

6. The host nation authorizes the purchase of the property. The Secretary of Foreign Affairs may set the conditions he may deem necessary in the interest of his government in the approval decree.

7. Apparently, this is done in order to comply with urban regulations.

8. This kind of agency has not been located in Mexico.

9. No particular regulation on this point was located. Apparently, security protection is provided by the local police.

10. No information is available on this matter. It is presumed that if the President and the Secretary of Foreign Affairs have a special interest in the matter, the time range required for the foreign government to secure the necessary approval may be shortened.

The Netherlands

Responses to questions 1–11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

As was pointed out in the report prepared in response to the earlier request of April 3, 1981, on this subject, the Netherlands does not have laws limiting the location of chanceries or embassies. Although local ordinances may exist that possibly deal with this matter, these are not included in the collection of the Library of Congress.

Following are the answers to the questions posed, insofar as it is possible to reply to them.

Question 1.—Zoning legislation exists in the Netherlands but most of it is done on a local level, except for some general statements. The local ordinances of The Hague are not available in the Library of Congress.

Question 2.—In the absence of laws stating the contrary, it may be assumed that foreign governments do have to comply with local zoning regulations.

Question 3.—Every municipality has a municipal building and housing supervisory board. Each municipality may decide how this board is organized.

Question 4.—Information not available.

Question 5.—A building permit is required for the construction, modification, or expansion of any building, whether or not it is a chancery, mission, or embassy.

Question 6.—Information not available.

Question 7.—Information not available.

Question 8.—Information not available.

Question 9.—Information not available.

Question 10.—The mayor and aldermen of the municipality have 2 months to decide upon a request for a building permit, and they may postpone their decision once for another 2 months.

Question 11.—Not applicable.

Panama

The laws governing the acquisition of real estate by foreign governments in Panama for the purpose of setting up chancery buildings in that country is subject to the principle of international reciprocity acknowledged by the Ministry of Foreign Relations and by the following laws.

The Constitution of Panama of October 11, 1972,[34] as presently in force provides:

> *Art. 249.* No foreign government or foreign official or semiofficial entity or institution may acquire title to any part of the national territory except for embassies in the manner prescribed by law.

[34] Constitution of Panama of 1972 (Washington, D.C., General Secretariat, Organization of American States, 1974).

The Vienna Convention on Diplomatic Relations of 1961[35] was approved by Panama pursuant to the provisions of Law 65 of February 4, 1963.[36] Pertinent provisions of this convention follow:

Art. 21:

1. The receiving State shall either facilitate the acquisition of premises on its territory, in accordance with its laws, by the sending State necessary for its mission or assist the latter in obtaining accommodations in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodations for their members.

Art. 22:

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Other pertinent provisions of Panamanian law applicable to this inquiry are found in Cabinet Decree 280 of August 13, 1970,[37] which regulates the authorization of privileges and immunities to foreign diplomatic missions and consular offices and their respective members. These provisions state:

Art. 2. The granting of privileges and immunities to diplomatic missions and foreign consular offices, as well as to their members, shall be subject to the strictest international reciprocity.

Therefore, privileges and immunities may be increased and new ones added, or be restricted or suppressed by order of the Ministry of Foreign Relations, as required in each case. The Ministry may grant or refuse the invoked reciprocity [when it is] alleged to obtain privileges and immunities which are not contemplated in the present Cabinet Degree or acknowledged in a lesser manner here.

* * * * * * *

Art. 7. It is within the competence of the Ministry of Foreign Affairs:

(a) To control the privileges and immunities which are to be granted in the Republic to diplomatic missions and foreign consular offices as well as to their members, to representatives of international organizations, to their special missions or to foreign governments and their members,

(b) To make effective the international reciprocity on this matter, by adopting for that purpose the necessary measures, and

(c) To resolve any doubt which may arise concerning the regulations established here and on matters related to privileges and immunities in general.

Art. 8. The national authorities shall grant all kinds of facilities to foreign diplomatic missions for the performance of their functions. . . .

Art. 11. The premises belonging to diplomatic missions are inviolable. They cannot be entered without the consent of the Chief of the Mission. . . .

* * * * * * *

National authorities have the special obligation of adopting whatever measures are adequate for the protection of the premises belonging to diplomatic missions against trespass or damages and to prevent the peace of the mission from being disturbed or from any attempt against its dignity being committed.

Other applicable regulations on this matter appear to be found in the Administrative Code of the Nation approved by Law 1 of August 22, 1910.[38] Articles 1313 through 1324 of this code govern both the licensing of building construction and demolitions by the local police authority which require consultation with the local civil engineer and the public health authority for the issuance of the corresponding construction license.

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[35] 23 UTS 227, TIAS 7502, 500 UNTS 95.
[36] Gaceta Oficial [G.O.], March 12, 1963.
[37] Gaceta Oficial [G.O.], August 18, 1970.
[38] G.O., August 22, 1916.

In those cases where the municipality has not acquired title to its vacant land, the corresponding licenses for construction shall be issued by the Secretariat of the Treasury, as provided under Law 30 of December 15, 1932.[39]

In view of the above, the questions raised in the letter of inquiry may be answered as follows:

1. No zoning regulations have been located in Panama for the use of land.
2. This question does not seem applicable to this inquiry.
3. No zoning commission has been located in Panama.
4. No regulation has been located on this matter. Apparently, accreditation before the host nation is sufficient for the Secretary of State to consider a land request.
5. No specific answer to this question has been located. Presumably, together with the authorization issued by the Secretary of Foreign Affairs, local building permits, translations of site and building plans into the language of the host nation and other local licenses must be secured.
6. The host nation purchases property with the limitations provided for under Article 249 of the Constitution, that is, limited to the construction of its embassy building.
7. No regulation on this matter has been located in Panama.
8. No such agency has been located in Panama.
9. No particular regulation on this point has been located. Apparently, security protection is provided by the local police.
10. No information is available on this matter.

People's Republic of China

1. We do not have access to, nor have we seen references to, any national or municipal enactments of the People's Republic of China (PRC) that make provision for zoning. However, there may be unpublished guidelines.
2. We have no knowledge of any PRC enactments with which a foreign government must comply with respect to local zoning in locating, building, expanding, or modifying its chancery, mission or embassy. In the attached article from the China Business Review, May–June 1980, p. 5–7, Ambassador Leonard Woodcock makes some comments upon the difficulties the U.S. Embassy has encountered in obtaining satisfactory quarters in Beijing.
3. No information.
4. No information.
5. No information.
6. No information.
7. We believe that foreign embassies generally are located in close proximity. In "Wide-eyed in Peking: A Diplomat's Diary," B. Michael Frolic, who spent some time in Beijing on a special assignment to the Canadian Embassy, commented that the Canadian Embassy "stands in the middle of one of the two foreign compounds. It is in these two areas that practically every foreign diplomat must live and work." Mr. Frolic's article appeared in the New York Times Magazine, January 11, 1976, p. 14 et seq. The above quotation was taken from p. 17.
8. Security in Beijing is quite tight, and, with the exception of periods of political upheaval such as the most chaotic days of the Cultural Revolution (1966–1969), the Chinese have been very concerned with the security of foreigners in China, particularly foreign diplomats. Frolic commented that at the Canadian Embassy the staff was "guarded by Chinese soldiers stationed at every building entrance." Foreigners in China, including foreign diplomats, frequently comment that the concern for their security and for minimizing their contacts with Chinese citizens is so great that they often feel isolated.

Demonstrations and attacks involving foreign missions during the Cultural Revolution are described in the attached pages 165–171 of James Chieh Hsiung's "Law and Policy in China's Foreign Relations," New York and London, Columbia University Press, 1972. In the more controlled atmosphere of recent years, there have been no such demonstrations and attacks.

10. In his interview with the China Business Review, Ambassador Woodcock stated that "[we] submitted to the Chinese last October [1979] a request for a land site for a permanent embassy, with enough space for an American school, which is another big problem we have here, and a separate residence. We also submitted some proposals for staff housing but have had no response. That solution is years down the road."

[39] Id., December 19, 1932.

It is most likely that policy considerations carry greatest weight in the assignment of space to embassies and work on existing sites and structures. Frolic gives a personal view of these policy considerations as follows:

". . . I learned how the Chinese rank and orchestrate the [foreigners] with which they deal. Canada is automatically lumped in a basic category within a carefully constructed hierarchy of foreigners, much like the system used by the Emperors when China was the 'center of world.' Most favored are the 'good Socialist' countries: Albania, Rumania, North Korea, Vietnam, Laos, Cambodia, and sometimes Yugoslavia. Then the 'The Third World,' a large category including everything from the Palestine Liberation Organization to Mexico. All developing nations, national independence movements and former colonies fit into this group. The third category is the 'Third World,' which basically includes all countries of the developed world, excluding America and the Soviet Union, which are classified as the 'Superpowers.' The pro-Soviet Socialist nations (Poland, Outer Mongolia, etc.) fit into a special category of wayward Socialist countries under 'social-imperialist' domination.

"These groups, in turn, are ranked by further criteria: When did the country in question establish relations with China? Is its government Socialist or not? Is it a powerful nation? Is there some immediate gain for China in improving her 'bonds of friendship' with the nation in question? Thus, in the second-world category, Canada may be more favored than West Germany and Italy, by virtue of our earlier date of recognition, but less favored than France, which is more important as a world power, and has had a longer diplomatic relationship with China. The Americans, because they do not have full diplomatic recognition, and because they are in the maligned superpower class, get lower-level treatment, tempered by the fact that the Chinese admire the Americans for being Number One and are willing to make certain concessions.

"How is this categorization tangibly expressed? In many ways, some subtle, some overt. Thus, large Western second-world countries are often crammed into smaller, older embassy facilities, whereas less populous, less important third-world countries frequently receive vast embassy grounds; important Chinese may appear at third-world receptions but not at second-world ones; third-world travelers and diplomats often have access to places that are closed to us; the Americans are forced to pay the highest rents and wages in Peking."

Attachments.

[From the China Business Review, May–June 1980]

CBR Interview With Ambassador Woodcock

[Ambassador Leonard Woodcock has seen the American relationship with Beijing develop and expand from an especially intimate perspective. He personally negotiated diplomatic normalization of relations with China on behalf of President Carter in 1978, and has personally witnessed the fruits of those negotiations. America's Man in Beijing now leads one of the busiest lives of any U.S. representative abroad. CBR's Editor Nicholas H. Ludlow and Managing Editor James B. Stepanek interviewed Ambassador Woodcock on April 3, 1980, about life in Beijing and his view of future Sino-U.S. economic relations.]

IMPACT OF THE SINO-U.S. TRADE AGREEMENT

CBR. What have you seen of the impact of the Sino-U.S. trade agreement in Beijing?

Woodcock. The significance of the trade agreement to the Chinese is bringing most-favored-nation treatment into action. It hasn't had that much impact to date on the interchange with regard to business. And its beneficial effect over time is going to be fairly limited.

I look for a growth of two-way trade, and that depends very much on its being two-way. We must look at the things we are willing to buy from China as well as to sell to China. This is where MFN is helpful. But I think the growth will be slow and gradual because the big breakthroughs that possibly could take place in minerals and in oil have long lead times attached to them.

Last year our two-way trade was $2.3 billion, heavily in favor of the United States I am pleased that more and more American businesses are seeking ways in which to help balance this flow.

CBR. What kind of opportunities have you seen developing for American companies in China? What do you tell American companies?

WOODCOCK. Well, I encourage them to stay on the course. It's currently quite difficult; it takes a lot of patience. And the opportunities are somewhat limited because of China's shortage of foreign exchange. But those companies that work with the Chinese during this period certainly will stand to benefit after the corner is turned, and I'm convinced it will be in a few years from now. A company can look upon this period as a period of investing for the future.

CBR. Could you comment on the Sino-U.S. exhibitions this fall?

WOODCOCK. So far as China's exhibition in the United States is concerned, I think there are many attractive wares, in the arts and crafts categories in particular, to which the American people have not generally been exposed. That is in areas where we don't have the competition problem as we do in textiles. I'm very much hoping that the exhibition will be very successful in terms of attendance and interest. And I think it can be. And that can give a very definite upward movement to the trade by exposing areas where not too much trading now is being done.

CBR. How about the U.S. exhibition here?

WOODCOCK. That is in November. Our emphasis there will be on heavy goods. Our exhibit will consist of high-ticket expensive items. The Chinese, in their show, will be obviously much lower in cost, which tends to emphasize the difficulty of balancing out of Sino-U.S. trade on a fair basis. I know that the American exhibit will be very well put together and, I think, will be very successful.

AMERICANS IN CHINA

CBR. How many American business executives and tourists are now visiting China?

WOODCOCK. Well the total number of Americans was 30,000 in 1979. Most of those were obviously tourists but the number of business people was several thousand and included many S&T types. So, of that several thousand, several hundred would probably fall into that category.

CBR. There has also been an increasing number of state-to-province delegations. Three from Massachusetts, Delaware, and Pennsylvania have just been here.

WOODCOCK. The Massachusetts trade delegation is headed up by Lieutenant Governor Tom O'Neal. In fact, that's where I was this morning. Mississippi, Kentucky, and Alaska have been here; Ohio has received two provincial delegations. About a third of the states have been here. Seven governors came at once, representing the Governor's Conference.

CBR. How many Chinese provinces have been to the states or have begun forming relations?

WOODCOCK. Six or seven. Not all of them have been to the states.

CBR. Do you see this trend continuing?

WOODCOCK. Yes, there is a great interest on the part of the Chinese. They seem quite excited about it. And we're also developing city relationships. San Francisco and Shanghai, Philadelphia and Tianjin, New York and Beijing. There are a lot of university relationships. Twelve to fifteen, I think, are either in being or in formation. One of the difficulties is that, as you may know, Chinese universities don't have the wide range of disciplines that ours do. So that to have a balanced relationship you need more than one.

CBR. The whole Sino-U.S. relationship is deepening on many fronts.

WOODCOCK. No question about it.

THE EMBASSY IN BEIJING

CBR. How has the work at the embassy here been affected by normalization of relations?

WOODCOCK. Before normalization, our relationship with the Chinese officials was quite narrow. We always had to work through the protocol section of the foreign ministry. After normalization we began to widen our contacts and they continue to widen all the time.

Before normalization, for example, there were not too many Chinese who would come to the residence for social functions. Now not a week goes by when we don't have one or two, and sometimes three or four, Chinese counterparts to functions for visiting American delegations, or Chinese groups that are going to the United States. In the governmental, educational, and cultural areas the relationship has expanded far beyond, very frankly, how I thought it would expand in a relatively short time.

CBR. Are there plans to expand the embassy?

WOODCOCK. There are plans but no apparent sense of urgency. We had on our staff, at the time of normalization, 33 Americans. There are currently 61. Four more are coming, which brings us to 65. About three weeks ago I had to notify Washington that as ambassador I could not approve any further additions to the staff because of lack of housing and lack of office space.

To put that into perspective, after Islamabad (the burning of the U.S. embassy in Pakistan) our staff was cut down there because of the problems. It was cut to about what was said to be a bare minimum; that number was 70.

Some of our people here work a lot of hours per week because of the shortage of our staff. But we will have to wait till we can see some solution, particularly to the housing problem. Of the present 61, we have 19 in a hotel. Many of them have been there more than six months. There is a new apartment building opening up to foreigners in a couple of months. And another one will be two or three months behind that. We have already been allocated eight apartments, but will still be fifteen short after our staff reaches a ceiling of 65. So at any given time we will have 15 people in the hotel, which is a demoralizing factor.

We submitted to the Chinese last October a request for a land site for a permanent embassy, with enough space for an American school, which is another big problem we have here, and a separate residence. We also submitted some proposals for staff housing, but have had no response. That solution is years down the road.

As far as our consulates are concerned, in Shanghai we have been treated very well. We have an excellent building for the consulate general, and beautiful grounds. And we have been assigned adequate housing for our initial staff.

In Guangzhou, both the consulate and the housing are all in the Dongfang Hotel. They have offered us two sites, both of which we rejected as being inadequate. A building or a site on which we could possibly build our own consulate has not been forthcoming. They will be in the hotel in Guangzhou indefinitely at this point.

FACILITIES FOR BUSINESS

CBR. What kind of facilities do you have here for business?

WOODCOCK. At present we have some audiovisual equipment which we loan out. We have several officers who are available to give advice and assistance, and two secretaries. We have some storage facilities for business persons going out of the country and coming back later.

We had to close down the little office and reference library we had for business people, because of the tremendous space problems that I referred to earlier. We will assist firms by making appointments if necessary. We transmit messages for them to Chinese officials and send back a lot of messages.

We do permit firms to use our photocopy machines. In a three-month period, I think there were 70,000 copies made. An incredible number.

In Shanghai we have commercial offices. Both consulates will support business people through their regular employees.

Lately, an interesting development has been that Chinese officials have been asking our commercial staff for specific information, either about American firms or American products. Where we know the firm, we have been contacting them directly. Otherwise, we can go to the Department of Commerce to contact the firm. Hopefully, this will lead to some business.

A TYPICAL DAY

CBR. How does a typical day go for you?

WOODCOCK. There is no typical day. Visits take place all through the day and people have to be scheduled to fit in with the schedules of the visiting delegations, or whoever, so that there is no such thing as saying, "Every morning I work at my desk." It doesn't work like that.

I normally get up at 6:15, go out and get my exercise around the park, then get back and listen to Voice of America. I usually do quite a bit of reading after breakfast, before I go out front.

CBR. Is that six days a week?

WOODCOCK. Yes. Officially the embassy is closed on Saturday but most everybody is there.

I spend several hours at the desk, running through all the cable traffic and incoming-outgoing mail, all the reading that's required. Practically every evening now, at about 5:00 or 5:30, we have a briefing for American groups, either

by the political section or economic section, depending on the composition of the group.

Then we have what we call a reception, which is more of a social occasion. There is a lot of interchange, which nowadays is always on a bilateral basis; that is to say, the Chinese are always involved, where before normalization that didn't happen as often. Receptions would be for Americans only.

There has been one other big change from pre-normalization. Previously, I went to many diplomatic dinners in other diplomatic communities. Now, I almost never go anymore because the evenings are preempted by dinners with visiting Americans and other functions. That's been a big change.

There is one nice thing about the receptions; thanks to the Chinese, they last only one hour. They begin promptly at 5:30 and end promptly at 6:30, which is a blessing. And, of course, the dinners in which the Chinese are involved are not more than approximately two hours, so that in Beijing the evenings end early. They go to bed early, they get up early.

Our record for banquets was 14 nights straight. That was last spring when there was a briefing or reception or dinner every night. Usually these take five or six nights every week. We try to keep Sunday clear but that isn't always possible.

At Thanksgiving time, those of us who have apartments big enough have over those who are staying here at that time from the business community or American teachers and students. Last Thanksgiving dinner we had 61. We had a wonderful time.

CBR. What other things do you do with the American community?

WOODCOCK. Well, we have now formed the American Club. It's only just begun. I spoke at the first official meeting. Their next event is a luncheon for a congressional delegation headed by Congressman Bingham. That will bring us together more. We try to keep in contact with the American community, generally.

CBR. How many people are there in the American community?

WOODCOCK. It is hard to say; there are about 50 businesses with offices and they rotate the people in and out. There are about 50 students right now and there will soon be a few more. There are more than 200 Americans in the whole country, including some living here as "foreign experts." Plus the embassy staff and their dependents, so the total would be about 300 or more.

PERSONAL LIFE

CBR. What is your personal view of life here?

WOODCOCK. Well, it's been such an exciting period in the little more than two and a half years that I've been here. There is so much happening, seeing the expansion of the relationship and the deepening of our relationships. The Chinese are such a likeable people. My wife and I have thoroughly enjoyed it. We don't feel any deprivations. We have really enjoyed it.

Relationships with the Chinese, certainly at my level, have always been on a formal basis. I don't mean that you can't have an informal relationship, but it has not progressed to that point for me as it has for some of the embassy staff. I think it will come: to be able to say to someone, "Why don't you and your wife come to dinner?"

CBR. What do you do in your leisure time?

WOODCOCK. Well, when we have a free evening we are just happy to spend it at home. We use the time for reading and listening to music. We often watch Chinese television.

CBR. I noticed the piano there; do you play the piano?

WOODCOCK. No, but we have had some [pleasant occasions] because of that. Two American pianists, Walter Hautzig and Daniel Pollack, and violinist Isaac Stern were here to perform. When, for example, Isaac Stern heard that some of the diplomats were having trouble getting tickets to the concerts, he asked me if I would mind arranging a concert here for the diplomatic community. We were delighted to have the concert here—that too was a memorable evening.

CBR. Have you traveled much in China?

WOODCOCK. During the first year I was here, I did a great deal of traveling because there wasn't that much to do. However, beginning in July of 1978, when we began serious negotiations working toward normalization, I didn't leave Beijing for five months, except to go to the States. Since normalization, the opportunities for traveling within the country have not been very plentiful.

CBR. Do you go out for entertainment here in Beijing?

WOODCOCK. No, unless it's part of something official, not very much. Of course, we get some movies which we show here.

CBR. What things about China have impressed you most?

WOODCOCK. When you consider that China is a country about the same size as ours, with five times as many people as we have. I think they have done a remarkable job in managing themselves as well as they have. Particularly in terms of agriculture and their ability to provide as much of their own food needs as they do. That very much impressed me. The Chinese are extremely intelligent people. They have a great future.

With the apparent resources and the known resources they have in minerals, coal and petroleum, they can solve some of the great economic problems they have. And they are recognizing the problems—a first step toward finding solutions. They are willing now to experiment with economic forms, to find better answers. I think they are pragmatic by nature and they'll find the answers.

CBR. What are your views on the future role of the National Council?

WOODCOCK. I would think there will always be a substantial role for the National Council as I see it personally. There are so many times when a nongovernmental approach can be more easily managed than a governmental approach. An institution like the National Council keeps in close touch with the U.S. government and its programs and needs. It has an extremely useful role to play.

LAW AND POLICY IN CHINA'S FOREIGN RELATIONS: A STUDY OF ATTITUDES AND PRACTICE

(By James Chieh Hsiung)

Red Guard orgies against foreign diplomatic missions in Peking were another obvious exception to the trend of Peking's becoming mellow over the years in respect of diplomatic immunities and privileges. A few notable events are worth mentioning here. First, the Red Guards staged a war of nerves against the Soviet diplomats in the latter part of 1966 and the spring of 1967, involving the siege of the Soviet Embassy and roughing up of Soviet diplomats and their dependents on their way to the airport for evacuation by air. The Soviet Union in 1963 had expelled three Chinese diplomats and two students in Moscow for having distributed anti-Soviet polemics. But the CPR did not retaliate in kind. In late 1966, the Soviets were reported to have insulted and inflicted brutality upon Chinese students in Moscow. At the time of the Red Guard demonstrations in early 1967, similar demonstrations were also staged by Russians outside the Chinese Embassy in Moscow. Thus, the Red Guard campaigns against the Soviet Embassy and its staff could be a form of reprisal against the 1963 Soviet expulsion of Chinese diplomats and against the humility to which the Chinese Embassy personnel were alleged to have been subjected.

Whether the reprisal could be justified, Peking would have to cleanse itself of its obvious failure to provide proper protection to the diplomats of other countries. The Czech and East German chanceries in Peking were among those which suffered from a spillover of the Red Guard fury against the Soviets. During the Soviet evacuation on February 14, 1967, some Western diplomats—including British Chargé d'Affaires Donald Hopson and Ambassador Lucien Paye of France—tried to link arms with diplomats from Communist states to make a passage for the Soviets to be evacuated by air, but they were reportedly jostled and roughed up by the Red Guard crowds. David Oancia of the Toronto (Canada) *Globe and Mail* reported from Peking at the time that "the Chinese demonstrators seem to take great pains to insure that foreigners whose countries are not officially being attacked are not molested."

Red Guard attacks persistently spread to other embassies. On June 14, 1967, hundreds of Red Guards beat and kicked two Indian diplomats at the Peking airport when they were leaving for Hong Kong after being ordered out of China as spies. Krishnan Raghunath, second secretary, and Padmanab Veejai, third secretary, were accused of having taken photographs on June 4, 1967, of what the Chinese described as "a prohibited military area." Raghunath had been tried *in absentia* by the Peking Municipal Higher People's Court, which, in a default judgment, convicted him of espionage. (It is a moot question whether the trial *in absentia* and the default judgment constituted a violation of the diplomat's immunities.) Indian officials described the charges as a fabrication and said that Raghunath had photographed places of cultural interest. The Red Guard manhandling provoked a strong protest from the Indian chargé d'affaires, Sam

Sathe, alleging "inhuman treatment." Chinese officials replied that the Indians had "provoked the masses" by refusing to hand over Mr. Raghunath to security authorities at the airport before leaving for Hong Kong, presumably for protection against Red Guard seizure. Nevertheless, the CPR government could hardly escape the responsibility incumbent upon a receiving state to protect with due diligence the inviolability of foreign diplomats against imminent mob action.

The most bizarre of Red Guard antiforeign campaigns was the sacking and burning of the British Embassy compounds on August 23, 1967. The riot crowned a wave of Chinese protests against the British ban on three Communist newspapers and the arrest of leftist journalists in Hong Kong. It was the Red Guards' answer to the British rejection of a CPR ultimatum demanding that the ban be lifted. More than 10,000 Red Guard youths broke into the compounds, burned down the buildings and all automobiles, and seized all the British Embassy staff and their families, beating some of them before finally releasing them. The outrage strained Sino-British relations almost to the breaking point. In this incident, however, Peking authorities tried actively to control the mob, to quell the fire, and to protect the safety of the embassy personnel. According to an Agence-France-Press dispatch the fleeing Britons agreed that the Chinese policemen and soldiers—who had surrounded the chancery in an attempt to ward off the attackers—had tried to protect them from the Red Guards. They reported that some of the policemen were wounded trying to stem the fury of the crowd.

The inviolability of the premises of a diplomatic mission, as well as of the diplomatic agent, has been universally recognized in the practice of states and is reaffirmed in the Vienna Convention of 1961. The task of adequate protection may demand the taking of special precautionary measures by the receiving state, such as posting of police guards at the embassy premises or provision of an armed escort for the envoy. Inadequate protection resulting in damages to person or property engages the responsibility of the receiving state. But, if the hostile act was unforeseeable or assumed unforeseeable proportions, the receiving state is free of any responsibility. In February, 1955, for example, the Romanian Legation in Berne was attacked by an armed group of Romanian refugees who took possession of the premises. The Swiss police had no warning for the totally unexpected event. Despite Romanian protests, the Swiss government could not be held responsible. The Supreme Court of the United States in the *U.S.* v. *Hand* case expressed the view that an attack upon the mission premises is equivalent to an attack upon the person of the envoy himself, that precautions must be taken against mob violence, and failing that an apology was owed to the aggrieved state. Under international law the receiving state has an obligation to intervene at the earliest possible chance to rescue the diplomat or mission premises when an attack breaks out. Where it has been impossible to forestall damage, the receiving state has the duty to repair the damage as early as possible.

Whether the CPR could be held responsible for the Red Guard abuses would depend upon two criteria. The first is whether the Chinese authorities had taken the necessary precautions to protect the foreign diplomats and mission premises under attack. As we have seen, the answer varied from case to case. The CPR government could hardly escape responsibility for having failed to portect the two departing Indian diplomats from Red Guard manhandling. In the British Embassy case, Chinese police and soldiers had been posted outside the compounds but were overwhelmed. After the mobsters had broken into the chancery, these security men risked their lives to provide protection to the embassy staff and their families. The CPR's responsibility, therefore, would be limited to repairing the gutted compounds, plus an apology.

The other criterion for determining Peking's responsibilities is whether the Red Guard actions could be attributed to the willful prompting by the CPR authorities themselves. This would be most difficult to answer; yet, it is more important than the question raised above. From the vantage point of 1971, it appears that, although Red Guard activism owed its origin to an implicit encouragement from Chairman Mao himself at the outset of the Cultural Revolution, violence was from the very beginning prohibited. After January, 1967, Mao reiterated the ban on violence and directed the People's Liberation Army to

step in and help stop Red Guard anarchism. It was more than a year before a semblance of order was restored. The ability of the CPR government to maintain effective control over the outbursts of the Red Guards at the time was at best questionable.

At the height of the chaos, some extremists even broke into the CPR Foreign Ministry and staged a "struggle" against Foreign Minister Ch'en Yi. It did not become known until the spring of 1968 that a group of "radical leftist" leaders of the Cultural Revolution—Wang Li, Kuan-Feng, and Ch'i Pen-yu—had been personally responsible for the Red Guard attacks on the Soviet, Burmese, and British embassies in 1967. The "Red Guard diplomacy" phase, which lasted till at least October, 1967, was evidently not sanctioned by Premier Chou En-lai and his foreign minister. In his conversation with Edgar Snow, the American writer, in December, 1970, Chairman Mao Tse-tung said he was not in control of the foreign ministry in 1967 and 1968. It was not until June, 1971, that it was confirmed that a "revolutionary group" was in control of the foreign ministry in August, 1967, when the office of the British chargé d'affaires was burned and attacks made on the Indonesian and Burmese embassies. Yao Teng-shan, former CPR chargé d'affaires in Indonesia, and an important member of the "revolutionary group," was purged and sent to prison on June 11, 1971. Premier Chou was reported to have expressed his regrets to John D. Denson, the new British chargé d'affaires in Peking. These steps were meant to relieve the CPR government of whatever responsibility it had incurred.

It is tempting to compare the Red Guard defiance of diplomatic privileges and immunities with the notorious Boxer Uprising of 1900. In that earlier incident, Boxers besieged and attacked the Legation Quarters in Peking for two months; and, in the final count, death claimed the German Minister and a secretary of the Japanese Legation. However, the similarities are more superficial than real. In the first place, the Boxers were supported by the Empress Dowager, the real power in the Manchu government, who used the antiforeign sect to get even with Western powers after years of enforcing foreign privileges under unequal treaties. Secondly, the Boxers virtually declared war on the foreign missions and it was their avowed purpose to kill foreign envoys. The Empress Dowager even ordered that wherever in the empire a foreigner was found he had to be killed. The madness was stopped only after two courageous ministers altered the outgoing telegrams so that for "kill" they read "protect." Although the Red Guard antiforeign feelings were similarly strong and they had backing from some radical Cultural Revolution leaders, it is questionable whether they had been deliberately used by the CPR government to stage an extermination campaign against the entire diplomatic corps.

Perhaps it would be more correct to compare the Red Guard attacks with the frequent outbursts of anti-Western feelings in other Afro-Asian countries. In May, 1960, for example, five hundred Indonesian students broke into the Dutch Legation and damaged furniture and valuable paintings. In April 1965, a mob of twenty thousand Cambodians attacked the American Embassy and ripped down the American flag. The United States consulate-general in Alexandria, Egypt, was gutted, along with a nearby three-story building that housed the United States Information Service, shortly after the Arab-Israeli "June War" in 1967. American diplomatic and consular officers were expelled by Egypt under humiliating conditions for alleged United States support to Israel. During the controversy over Sabah, in the fall of 1968, placard-waiving Filipino students broke into the British Embassy residence in Manila, set fire to an adjoining cottage, and broke window panes before the riot police were called in.

Actual violations of diplomatic immunities in state practices throughout the world are more numerous and more frequent than one realizes. In June, 1967, three Guinean diplomats, including the country's foreign minister and its permanent representative to the United Nations, were arrested in Ivory Coast during a stopover as they were returning home from a special session of the General Assembly. The third Guinean was an official of the Universal Postal Union; his family was traveling on the same plane and also arrested. The detention, Ivory Coast officials claimed, was a retaliation against earlier detention in Guinea of nationals and residents of Ivory Coast. The diplomats were not released until September 22, after prolonged efforts by U Thant, the U.N. secretary-general, to obtain their

freedom. The seriousness of the case prompted the secretary-general to inscribe the question of diplomatic privileges and immunities of United Nations officials on the agenda of the Twenty-second General Assembly. At the recommendation of the Sixth Committee, the General Assembly, on December 18, 1967, adopted a resolution deploring all departures from the rules of international law governing diplomatic privileges and immunities and those of the United Nations. Furthermore, the resolution urged all U.N. member states which had not yet done so to accede to the 1946 Convention on the Privileges and Immunities of the United Nations, and the Vienna Convention on Diplomatic Relations of 1961. It further urged all states, whether they were parties to the Vienna Convention or not, to "take every measure necessary to ensure the implementation of the rules of international law governing diplomatic relations and, in particular, to protect diplomatic missions and to enable diplomatic agents to fulfill tasks in conformity with international law."

The United States has a "Headquarters Agreement" with the United Nations, signed on June 26, 1947, but has refused to sign the more extensive Convention on the Privileges and Immunities of the United Nations, recommended by the General Assembly in 1946 for adoption by member states. Of course, the CPR is one of the many states, certainly not the only one, to which the General Assembly resolution could be addressed. It may be added, as *obiter dictum*, that the CPR was then ineligible to accede to the 1961 and the 1963 Vienna conventions, since only member states of the United Nations, its specialized agencies, the International Court of Justice, and other states specifically invited by the General Assembly may become parties to these conventions. The Republic of (Nationalist) China was then seated in the United Nations and signed the two Vienna conventions in the name of "China." Although Peking has now replaced Taipei in the U.N., its attitudes on this question remain to be seen.

Portugal

Land use in Portugal is controlled by a number of statutes and regulations which are basically enforced by the local Municipal Chamber. The more relevant sources are the following:

Decree-Law 166/70 on the Municipal licensing of private buildings; Decree-Law 46673 on urban subdivision of real estate; Decree-Law 576/70 on land policy for construction; and Decree-Law 582/70 on the regulation of the civil construction industry of private works.[40]

The statutes and regulations cited above do not appear to grant any special treatment or exemptions for foreign governments in locating building, expanding or modifying their chancery, mission or embassy. In this regard, the only relevant source found to govern these activities is the Treaty of Vienna of April 18, 1961,[41] the pertinent provisions of which follow:

> *Art. 21.*
>
> 1. The receiving State shall either facilitate the acquisition of premises by the sending State on its territory, in accordance with its laws, necessary for its mission or assist the latter in obtaining accommodations in some other way.
>
> 2. It shall also, where necessary, assist missions in obtaining suitable accommodations for their members.
>
> *Art. 22.*
>
> 1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
>
> 2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damages and to prevent any disturbance of the peace of the mission or impairment of its dignity.
>
> 3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

This treaty was ratified by Portugal and became the law of the land by virtue of Article 8 of Paragraph 2 of the national charter.[42]

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[40] J. Do Couto Neves, *et al. Codficacoes Urbanas* (Editão Dos Autores, Grafica Almondina, 1972)

[41] 23 UST 227, TIAS 7502, 500 UNTS 95.

[42] Constitution of the Portuguese Republic [English version] (Lisbon, Secretary of State for Mass Communication, EPNC, 1977).

The local enforcement agency, the Municipal Chamber, as defined by the national charter is a "corporate executive organ of the municipal authority, elected by the citizens entitled to vote and who are residents of the corresponding area." [43]

No specific references were found to zoning restrictions related to the location of chanceries in certain parts of the city. Likewise, no references were found to the certification of foreign governments, or any other form of recognition before a foreign government seeks a site and builds on it.

Within the context of the general laws and regulations cited above, location, construction, modification or expansion of any building, requires application before and approval by the local Municipal Chamber. All documents to be submitted to any Portuguese agency shall be in the Portuguese language.[44]

The records of the last ten years indicate that there were no incidents involving foreign nations' chanceries of either a violent or threatening nature in Lisbon.

No statutory or regulatory material indicates the existence of specific security measures providing for the protection of foreign government representatives.

There are no indications of the length of time involved in processing ordinary private applications of the type this report is concerned with, or of applications submitted by the counselor of diplomatic representatives to the same effect.

Switzerland

Responses to questions 1–11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1.—Land use in Switzerland is regulated on three levels of legislative jurisdiction: federal, cantonal and municipal. The federal law provides the general principles on planning and organization of territory,[45] the cantonal laws implement these principles in their local jurisdictions, and the municipal regulations contain concrete obligatory rules concerning zoning, buildings, streets, and places of recreation.

Question 2.—There are no special provisions in federal law or in the law of Bern Canton concerning the location of foreign chanceries, embassies, and missions. In the absence of such provisions, it is presumed that foreign governments must comply with the general regulations.

The Bern Cantonal Law of 1970 [46] gives the competence to delimit zones for dwelling houses, industrial zones, mixed zones, and zones for building complexes to the respective municipal authorities. Unfortunately the regulations for the city of Bern are not available in the collections of the Library of Congress.[47]

Questions 3–11.—Information to answer these questions is not available.

United Kingdom

Most foreign embassies in London are located in two or three prestigious areas of London. This concentration has resulted in problems for residents of those areas. Apart from the constant fear of demonstrations and violence, car parking by foreign diplomats is often inconsiderate and diplomatic immunity is regularly invoked for parking infractions, the embassies regularly give receptions which can turn out to be noisy, and there are long lines of people waiting for visas and other documents.

Local government in the areas concerned have attempted to combat the problems by trying to confine embassies to certain defined locations. For example, the Kensington Borough Council, in whose jurisdiction are located close to 50 embassies, employs the policy of allowing embassies only in the central part of the borough. The Council also subjects the applications to certain criteria, such as whether the immediate area around the proposed site is primarily residential, whether the establishment of the embassy would lead to the displacement of shops and small businesses, whether there are sufficient parking spaces available and the likely impact of increased traffic. In applying these criteria, the Kensington Borough Council could refuse any application for the setting up of a foreign embassy, but it has not yet done so because it would prove politically embarrassing. The Foreign and Commonwealth Office (the Department of State)

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[43] Id. art. 252.

[44] F. Luso-Soares, et al. Código de Processo Civil [Annotated] art. 139 (Porto Editora, 1979).

[45] Federal Law on Organization of Territory of May 22, 1979, Recueil des Lois Fédérales [Swiss Official Law Gazette] 1573.

[46] Art. 21 of the Law of June 7, 1970. In A. Zaugg, Kommentar zum Baugesetz des Kantons Bern, vom 7 Juni 1970 (Bern, Verlag Stämfli & Cie, 1971).

[47] Following our inquiry, Mr. Burman of the State Department, requested these regulations from the U.S. Embassy in Bern; but, to date, he has not received them.

points out that Britain is bound by the Vienna Convention on Diplomatic Relations of April 18, 1961, which requires it to assist foreign governments in setting up offices.

Answers to the specific questions are as follows:

1. Applications for establishing embassies are required to be made to the local government of the area.

2. Yes.

3. There are no special zoning commissions. The bodies overseeing the matter are the elected local government borough councils. As stated, some councils attempt as a matter of policy to restrict foreign missions to certain areas.

4. Not as far as can be ascertained.

5. The embassies are subject to planning and building permits. Some years back, the Soviet Government planned to develop two large sites in Kensington, one of which would have been surrounded by a 60-foot wall. Prior to the building permit stage, the Foreign and Commonwealth Office intervened to declare the scheme unacceptable. Such action, however, is exceptional.

6. No.

7. By common practice, most embassies prefer to locate in two or three areas of London. Many countries would consider it a loss of face not to be within these prestigious areas. Residents' associations have opposed this practice and would prefer to see the embassies spread out to other areas.

8. The Foreign and Commonwealth Office does not have a special unit concerned with handling the location etc., of foreign missions.

9. The presence of foreign missions raises increasing security risks. The violent seige and storming of the Iranian Embassy in Kensington in May 1980 is the latest example of the kind of security problem involved.

Demonstrations involving foreign embassies are too innumerable to be recounted. During the Vietnam era, the United States embassy was the scene of many demonstrations, one of which resulted in violence and bloodshed. Similarly, the Soviet embassy is subject to regular protest demonstrations on various issues. Special squads from the Metropolitan Police are assigned to protect embassies.

10. This information is not readily ascertainable.

11. Not applicable

VENEZUELA

The matter of the premises of foreign missions in Venezuela is addressed in the Venezuelan Constitution of 1973,[48] currently in force, which provides in Article 8, that foreign states may acquire, within a specified area, under the guarantee of reciprocity and within the limitations established by law, only real estate which is necessary for the seat of their diplomatic and consular representation.

The acquisition of real estate by international organizations may be authorized only in accordance with the conditions and restrictions established by law. In all these cases, sovereignty over the land is retained by Venezuela.

A search in our Index to Latin American Legislation reveals that no specific law has been enacted in relation to the provisions of the Constitution cited above.

The Government of Venezuela is a signatory of the Vienna Convention on Diplomatic Relations of April 18, 1961,[49] which provides general rules in regard to the acquisition of the premises necessary for diplomatic missions in its Articles 21 and 22 as follows:

Art. 21:

1. The receiving State shall either facilitate the acquisition of premises by the sending State on its territory, in accordance with its laws, necessary for its mission or assist the latter in obtaining accommodations in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodations for their members.

Art. 22:

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

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[48] Gaceta Oficial [G. O.], May 11, 1973.
[49] 23 UST 227, TIAS 7502, 500 UNTS 95.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

The Act of August 13, 1945, or Immunities and Prerogatives of Foreign Diplomatic Offices,[50] provides that the Government of Venezuela shall extend to foreign diplomatic offices every facility for the exercise of their functions,[51] but no specific rules were established in regard to the subject of this report.

Violent incidents involving foreign embassies, according to our sources, occurred on October 11, 1972, when unexploded bombs were found in the United States Embassy in Caracas, but did, however, not provoke any repercussions.

U.S.S.R.

As was stated in the previous report of April 3, 1981, there is no law governing the location of foreign missions in the Soviet Union. This question seems to be settled by agreements between the Government of the U.S.S.R. and the one concerned. Following this practice, the Governments of the United States and U.S.S.R. concluded on May 16, 1969, an Agreement on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington[52] (later referred to as the 1969 Agreement). This Agreement was followed by two others: (1) the Agreement of December 4, 1972, on the Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and of the Embassy of the Union of Soviet Socialist Republics in Washington[53] (later referred to as the 1972 Agreement) and (2) by the Agreement of March 30, 1977, Concerning Dates for Use of Land for and Construction of Embassy Complexes in Moscow and Washington[54] (later referred to as the 1977 Agreement). These agreements are attached as Appendixes I, II, and III, respectively.

It should be pointed out, first, that under the Soviet Constitution all land is the exclusive property of the state. Hence, a plot of land allocated for construction of a diplomatic mission's complexes of buildings remains the property of the Soviet Union. On the other hand, buildings erected on the allocated plot of land after expiration of the period of use is to be decided by negotiation between the parties concerned.

In compliance with the Subcommittee's request, answers to the specific questions 1–11 follow:

Question 1.—Pursuant to the Fundamental Principles of Land Legislation of the USSR and the Union Republics of December 13, 1968,[55] all land within city limits is under the jurisdiction of the respective city council of people's deputies, in this case the Moscow City Council. Its powers include the right to regulate, among other things, urban development, architecture, city district planning (zoning), and the like. However, the regulations of the Moscow City Council or its Executive Committee are not available.

Question 2.—Foreign governments are required to comply with local zoning regulations. For details, see the 1972 Agreement, I. General Conditions, paragraphs 3–5.

Question 3.—Information not available.

Question 4.—Information not available.

Question 5.—Approvals required of foreign governments are listed in the 1972 Agreement under III. Planning Documentation.

Question 6.—According to the Soviet Constitution, all land is the exclusive property of the state. Plots of land for the construction of diplomatic buildings are made available free of charge for a specific period of time. In the case of the

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[50] Documents and Notes on Privileges and Immunities 375 (Washington, D.C., Pan American Union, 1968).
[51] Id. art. 3.
[52] 20 U.S.T. 789.
[53] U.S.T. 3544 (Part 4).
[54] 28 U.S.T. 5293 (Part 5).
[55] Vedomosti Verkhovnogo Soveta SSR [official law gazette of the USSR], No. 51, 1968, text 485, as amended.

United States Embassy in Moscow, the period is for 85 years with the right to extend. (See the 1969 Agreement, Article III, paragraphs 1 and 4.)

Question 7.—Information not available.

Question 8.—The U.S.S.R. Ministry of Foreign Affairs (Services for Diplomatic Corps Division) handles the location, expansion, and modification of foreign missions.

Question 9.—Information not available.

Question 10.—See the 1977 Agreement.

Question 11.—See Appendixes II and III. Further information concerning the status of construction and occupancy timetables, as well as delays and the reasons for them, is not available.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 24, 1981.

HON. CHARLES PERCY,
Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I regret that my schedule does not permit my personal appearance before your Committee to offer testimony regarding S. 854, the Foreign Missions Act of 1982. I will deeply appreciate your including the following remarks in the official record of your hearings on this important legislation.

As a Member of Congress and resident of the Sheridan/Kalorama neighborhood of Washington, D.C., I have been contacted by friends and neighbors regarding Section 206 of the Foreign Missions Act of 1982, S. 854.

It gives me the greatest of pleasure to have this opportunity to bring to the attention of the Committee the fact that the residents of the neighborhood are deeply concerned about Section 206. They feel that this provision will accelerate the continuing increase in commercial-like uses in an area which is still largely residential.

Specifically, with regard to the parts of Massachusetts Avenue facing Rock Creek Park, from DuPont Circle through the British Embassy: the Historic District principle is threatened by the increasing transition of residential buildings (houses in which an Ambassador and his family lived) into chanceries or places of foreign business. The original designation of what had been a low density residential area into a diplomatic enclave has inevitably enhanced such transition. Therefore, residents in this low density residential area find that this present legislation, S. 854, contains provisions which implicty threaten to continue the erosion of the residential principle.

Of course, neither I nor the area residents have a complaint about the overall thrust of the bill. However, Section 206 poses a problem which citizens who live in the area feel threatens the preservation of low and medium density residential neighborhoods from further encroachment by places of business, which chanceries certainly are.

For example, Section 206 contains no specific clause assuring the right of residential neighborhoods of low and medium density habitation to be protected from the imposition of places of business. Also, there is no implication that chanceries may not be located in Historic Districts.

Further, it appears that the legislation also overlooks the role of the city in the siting process, to the detriment of the Home Rule concept. Section 206 confers on the National Capital Planning Commission powers and responsibilities that override those of the commissions and committees set up under city and district government to force zoning, maintain historic neighborhood principles and preserve low density residence areas. By making decisions on chancery siting, size, etc., the responsibility of a Federal commission, the legislation virtually guarantees a majority vote in favor of the "federal interest." Residents are, however, understandably concerned that neighborhood interests will most likely be at odds with active business-related activities in the area.

Thus, it appears that there are many parts of the country, as well as a number of areas in Washington, D.C.—such as the DuPont Circle and Foggy Bottom areas, in addition to residential neighborhoods on the District Line or just over it—which would be threatened, both by Section 206 and by the lack of some court of last resort, within the powers of the city government and implicit in the principle Home Rule.

The recommendations of the citizens who have looked at this proposed legislation are either to strike Section 206 or, at the very least, to revise the wording of the Section to preclude chancery siting, except in areas predominantly of office use, or of high density residential, commercial and institutional mixed use.

I urge you and your colleagues on the Foreign Relations Committee to give most careful attention to the concerns of area residents, not only in the District of Columbia, but in New York, San Francisco, and other cities that will be impacted by Section 206 of S. 854. I trust that in the hearings on this legislation, you are receiving extensive input from all interested parties on the implications of Section 206, and that you will give every consideration to the concerns of area residents.

Again, thank you, both for providing me the opportunity to share my views with your Committee and for having my statement incorporated into your hearing record.

All good wishes.

Yours sincerely,

FRED RICHMOND.

U.S. OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., July 9, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Office of Personnel Management would like to express its views to you on S. 854, the "Foreign Missions Act of 1982."

This bill establishes the authority of the Secretary of State to set the terms and conditions for granting or denying benefits to a foreign mission or international organization located within the United States. It also sets up an independent Office of Foreign Missions within the State Department to carry out these responsibilities.

Subsection 208(c)(1) provides for the Secretary of State to employ experts or consultants in accordance with section 3109 of title 5 at rates not in excess of that payable for level IV of the Executive Schedule, under contracts that may be renewed annually. We believe the level IV pay rate is excessive and should be changed to the grade GS–18 level which is the maximum rate payable to almost all other appointed experts and consultants.

Regarding the contract renewal provision, this is inconsistent with the basic authority for employment of experts and consultants. As section 3109 specifies, services obtained from experts and consultants are to be temporary or intermittent. Beyond that, such employment is contrary to the nature of consulting services. Furthermore, the use of the term "contract" will create uncertainty as to whether subsection 208(c)(1) authorizes appointments and/or contracts. Accordingly, we recommend deleting ". . . under contracts which may be renewed annually."

Subsection 208(c)(2) would authorize the Secretary to appoint individuals to provide technical and professional services without regard to provisions of law governing appointments in the competitive service. We believe such a broad statutory exception from the competitive service is unwarranted since the established personnel system has adequate flexibility to respond to diverse staffing needs. If a special need cannot be met through current authorities, the Office of Personnel Management has sufficient authority to approve necessary exceptions. Other highly specialized Federal agencies have amply demonstrated they can achieve their objectives within the civil service framework. We are prepared to work with the Department to assure that its needs are also met without resorting to special statutory exceptions.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DONALD J. DEVINE, *Director.*

THE GREATER WASHINGTON BOARD OF TRADE,
Washington, D.C., August 13, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR CHAIRMAN PERCY: On behalf of the 1500 businesses and professional firms who are members of The Greater Washington Board of Trade, I am writing in opposition to Section 206 of Senate Bill 854, which would give the National Capital Planning Commission in-lieu-of-zoning authority to approve the location, height, bulk and size of a foreign mission in the District of Columbia.

The present procedure for approving the location of a chancery requires that the Board of Zoning Adjustment (BZA) carefully review proposals by foreign governments to locate chanceries within the mixed use diplomatic district as defined by the Zoning Commission. The BZA's review is to assure compatibility with the affected neighborhood. We feel that this procedure meets the requirements of the District of Columbia Self-Governmental Reorganization Act which states "The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law."

We further believe that any improvements to the system of chancery location desired by the Department of State in the interest of national security and diplomatic reciprocity can be accomplished within the home rule framework for zoning. A review of chancery cases by the District of Columbia Office of Planning and Development shows that reviews are being accomplished in a reasonable period of time and that time savings will not be accomplished by transferring decision making to the NCPC. In fact, NCPC's status as a federal agency may add additional review time to meet the needs of NCPC's Section 106 Historic Preservation review and possibly a review under the requirements of the National Environmental Policy Act (NEPA).

We urge you to delete Section 106 of Senate Bill 854. We believe that the existing framework for zoning decisions regarding chancery locations is effective and is in conformance with the law and principle of home rule for the District of Columbia.

Sincerely,

J. PAT GALLOWAY, *President.*

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C., August 10, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing regarding your Committee's July 24th hearing on S. 854 and certain concerns pertinent to that bill.

Let me begin by thanking you, Mr. Chairman, for your timely and sincere remarks in your opening statement and your recognition of my efforts, on behalf of the Committee on the District of Columbia, to get the pertinent State Department and District of Columbia Government officials together to discuss solutions satisfactory to all parties responsible for facilitating the location of foreign missions and chanceries in the Nation's Capital.

After the June 4th hearing, on the provisions of S. 854 as contained in Title II of H.R. 3518 amending the District of Columbia Code, the Committee on the District of Columbia concluded that the State Department had not adequately justified the necessity for removing the chancery location zoning authority from the existing shared jurisdiction of the National Capital Planning Commission and the District of Columbia Zoning Commission—two quasi Federal-local bodies with significant Federal representation.

Notwithstanding that general conclusion, Mr. Chairman, the Committee on the District of Columbia and I concur with your observation that there is a clear Federal interest involved in providing for the location of adequate office facilities for the representation of foreign governments in the Nation's Capital.

Furthermore, to advance that end, it is the conclusion of the Committee on the District of Columbia that administrative and legislative means are available short of removing from the National Capital Planning Commission and the D.C.

Zoning Commission the basic authority to designate the areas and conditions for the location of foreign government office facilities.

It appears that such means are permissible within the requirements of United States treaty obligations to honor local law regulating the location of such office facilities. The pertinent parties can achieve an expedited zoning process for chancery locations, for example, if the State Department will seek authority to require foreign governments to initiate all site and building acquisitions and expansions with the proposed Office of Foreign Missions. Thereby, responsible legal, technical, and other assistance can be made available to foreign governments before difficulties arise. In addition, administrative and legislative means are available to enhance State Department representation of foreign government chancery applications throughout the review and approval process.

It would further appear that a solution incorporating the foregoing provisions would satisfy major State Department objections to the current process and the reciprocity difficulties of the United States in some foreign capitals.

There are workable solutions available without enacting the entire proposed effect of Sec. 206 of S. 854 which would profoundly alter the existing process of shared Federal-local jurisdiction governing the location, alteration, and expansion of foreign government office facilities in the District of Columbia.

I am available to discuss these matters with you if you wish, or your staff may wish to contact Mr. Edward C. Sylvester, Jr., Committee Staff Director, for further explanation of this Committee's experiences in this matter.

Sincerely,

RONALD V. DELLUMS,
Chairman, Committee on the District of Columbia.

DEPARTMENT OF THE TREASURY,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., August 17, 1981.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Subcommittee on Governmental Efficiency and the District of Columbia, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of the Treasury concerning S. 854, a bill known as the Foreign Mission Act, and for certain information relating to the protection of diplomatic missions.

It is the position of the Department of the Treasury that the United States Secret Service must retain its present authority to determine the needs of foreign missions relative to protection. Furthermore, the degree of protection accorded to a foreign mission must take into account other factors as well as the reciprocity accorded U.S. missions abroad. In this respect the Department must oppose vesting the new State Department Office of Foreign Missions with authority to dictate protective coverage. Such determinations should remain with the Secret Service. The Department therefore recommends that the Committee consider either the following new subsection of Section 204 of the State Department Basic Authorities Act of 1956,

(f) Nothing in this section shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to Section 202 of Title 3, United States Code or Section 3056 of Title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

or that it place in the legislative history to accompany S. 854 the following:

"The concept of providing benefits on the basis of reciprocity does not extend to those protective services provided by the United States Secret Service under the authority of Section 202 of Title 3, United States Code, with respect to foreign diplomatic missions, or under the authority of Section 3056 of Title 18, United States Code, with respect to a visiting head of a foreign state or government or certain distinguished foreign visitors. It is not the intent of this legislation to impact upon or change in any way the authority or procedures of the United States Secret Service. Nor is it the intent of this legislation to influence the policy of the United States Secret Service to provide protection at a level which is commensurate with protective requirements."

Similarly, because the geographical location of a foreign mission is directly related to complex security related considerations, it is the view of the Department of the Treasury that the United States Secret Service be consulted prior to locating or relocating a foreign mission.

Otherwise, S. 854 represents a substantial improvement over earlier draft legislation on this subject in that Section 209 exempts international organizations from the provisions of the Act unless the Secretary of State determines otherwise. This is appropriate in view of the major purpose of the bill to remedy the growing imbalance between the treatment accorded in many countries to official missions of the United States and the treatment accorded foreign government missions in the United States. The Department anticipates that the Secretary of State would consult with the international organizations involved and with the Department of the Treasury prior to a determination to apply the provisions of the Act to the international financial organizations in the District of Columbia.

The following is provided in response to the specific information requested in your letter:

1. Description of current security measures and potential problems which the E.P.S. (U.S. Secret Service Uniformed Division) encounters in protecting foreign chanceries and missions:

The United States Secret Service Uniformed Division provides security in the form of footbeats, fixed posts, cruiser patrols and scooter patrols for the protection of foreign missions in the Washington, D.C. area. Cruiser and scooter patrols are employed as a method of preventing unexpected and spontaneous acts of violence against any legation located in a Uniformed Division jurisdiction. Officers assigned to these patrols are trained to recognize items of suspicious nature, such as explosive devices, and to identify persons who act in a hostile or questionable manner near or in an embassy location. Explosive detection teams utilizing canines are also employed by the Uniformed Division as patrol units. In addition to responding to specific threats directed against embassy locations, these teams patrol independently and conduct random sweeps of embassy locations in an effort to seek out and identify suspicious items.

Intelligence data is of paramount importance to the mission of the Uniformed Division in that it acts as an aid in the prediction and anticipation of future security problems involving a particular embassy or legation. The Uniformed Division often is inundated with requests for fixed posts from the various locations within its jurisdiction. Due to manpower and other limitations, however, not all of the requests can be honored. Intelligence data, together with an evaluation of the potential for adverse action directed against a location, must be used as criteria in determining which requests warrant increased protection by the Uniformed Division.

Terrorism is of great concern to the Uniformed Division and is a potential problem to the success of its mission. Again, intelligence information is used extensively in the construction of profiles of known terrorist groups and possible terrorist activity. Intelligence data is also analyzed to assist the Uniformed Division in anticipating acts of terrorism.

2. Description of the ideal situation, from a security and protection point of view, which the Department envisions for foreign governments in the District of Columbia as well as for U.S. offices overseas:

If all foreign government embassy locations were limited to specific geographical areas (i.e., a ten square block area within the District that included only the diplomatic locations), the Uniformed Division could provide more efficient protection. This plan would not be a panacea, however, since several different governments within this designated area could have conflicting schedules of events resulting in traffic and pedestrian congestion and thereby possibly compromising security efforts. An alternative would be to have most diplomatic premises located as close to each other as reasonably possible.

Since not all foreign governments are news makers or controversial in their public statements, their levels of protective need vary. All foreign mission locations, however, are entitled to the highest level of protection that available resources permit. Most foreign governments having missions outside the District of Columbia are served by local law enforcement agencies on a day-to-day basis. Occasionally, there is an immediate need for increased levels of protection that local law enforcement agencies cannot provide. In an ideal situation, the Uniformed Division would have the available resources to detail a reserve force to meet these exigencies on an individual basis.

With respect to U.S. offices overseas, the Department defers to the Department of State as to the ideal security and protection activities which should be afforded by a host government.

3. The extent to which the Department of the Treasury participates or comments in proceedings before the District of Columbia Zoning Commission or Board of Zoning Adjustments in cases involving foreign governments:

This office is not aware of any case in which the Department of the Treasury has participated or commented in any case involving a foreign government.

The Secretary has commented in at least one instance in recent years on matters involving building in the District of Columbia by the international financial institutions located here.

In February, 1980, the Secretary, who is U.S. Governor of the International Monetary Fund (IMF) and instructs U.S. representatives in the IMF, wrote to the District of Columbia Zoning Commission to describe the Federal interest in the case of the IMF's application for zoning authority to construct an additional building adjacent to its headquarters. The Secretary stated that the United States has a responsibility, both as host government and the government responsible for the present location of the IMF headquarters, to assure that accommodations for the IMF continue to be adequate for the IMF's efficient and effective operation.

Subject to the considerations discussed above, the Department of the Treaury does not object to the enactment of S. 854.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

JORDAN LUKE,
Acting Deputy General Counsel.

THE DISTRICT OF COLUMBIA,
Washington, D.C., November 6, 1981.

Senator CHARLES H. PERCY,
U.S. Senate, Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAR SENATOR PERCY: In light of recent actions on the House floor concerning H.R. 4814 as it relates to the location of foreign missions in the District of Columbia, I would like to reiterate the positions of the Executive Branch of the District of Columbia. I remain opposed to the compromise proposal that I understand is being proposed for the following reasons:

1. The need for the legislative change has never been justified by the Department of State despite recent opportunities to clarify the issue before House and Senate Committees;

2. The National Capital Planning Commission (NCPC) has indicated by resolution that they do not see the need for the legislative change; and

3. The proposal removes the standing of citizens in the decision making process, which is not justified in my view.

Based on these considerations, I will continue to oppose this compromise and I would urge the Congress to delete this approach as an unnecessary intrusion on Home Rule. I hope that I can rely on your continued support and that of other Members who are concerned about the future of Home Rule and democratic principle of representative government in the District of Columbia.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.

COMMITTEE OF 100 ON THE FEDERAL CITY,
Washington, D.C., August 21, 1981.

Re Foreign Missions Bill (S. 854).

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Immediately subsequent to the termination of the hearings on S. 854 over which you presided on July 24, you were gracious enough to permit me to submit at a later date some supplementary material for the record. I hope the enclosed brief summary of arguments against enactment of S. 854 will be useful because it puts most of the arguments in one two-page paper.

Sincerely yours,

J. M. COLTON HAND,
1344 Ballantrae Lane, McLean, Va.

Enclosure.

ARGUMENTS AGAINST ENACTMENT OF S. 854

1. Enactment is unnecessary because the Federal interest is adequately represented under current procedures, and these procedures are working satisfactorily.
2. The Vienna Convention on Diplomatic Relations does not require the kind of approach contained in S. 854. Present procedures are completely consistent with the requirements of the Treaty.
3. There is built-in flexibility in the present setup.
4. To a large extent this whole proposal is the creature of private lawyers representing and retained by one or two foreign governments whose cases have been denied on their merits under current procedures.
5. An overwhelming majority of the National Capital Planning Commission voted that they find no reason for changing present procedures.
6. Members of Congress have expressed doubts as to the wisdom of Congress getting into local zoning matters.
7. Home rule would be badly impaired with respect to zoning.
8. There is no adequate opportunity in the proposal for citizen input in public hearings.
9. There is no difference between foreign government offices and domestic or multi-national corporation offices which would justify different zoning procedures for each category.
10. The District Government (both Mayor and Council) are opposed to this bill.
11. All organizations involved in local affairs which have considered this question are opposed to changing present procedures. These organizations are:

Metropolitan Washington Board of Trade.
Committee of 100 on the Federal City.
D.C. Citizens Planning Coalition.
Sheridan-Kalorama Neighborhood Council.
Citizens Association of Georgetown.
DuPont Circle Citizens Association.
Foggy Bottom A.N.C.
Cleveland Park A.N.C.

12. It would appear that the security dangers involving embassies are as great, if not greater, than chanceries. Nevertheless the State Department does not suggest concentration in certain areas for embassies.
13. Complete security can never be assured. It is a matter of degree. The slightly greater security in the State Department proposal for chanceries clearly does not transcend all the negative arguments enumerated above.

[The proposed revisions mentioned in the following letter are contained in the committee's files on this legislation.]

MRS. HARRIET B. HUBBARD,
Washington, D.C.

Senator CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: Attached are proposed revisions of the Senate Bill, S. 854. The revisions have been made on the amended House version of the Bill—that is the Bill as it has been proposed to be amended by Mr. Dellums of the House District Committee.

These revisions are proposed by the Ad Hoc Committee on the Foreign Missions Bill, which is a committee composed of citizens of the Washington area, and are in addition to and supplementing the testimony of Mr. George Blow and Mr. Lawrence Hargrove which they presented on July 24, 1981 at the hearing on S. 854 at which you presided.

The proposed revisions, we feel, would strengthen the hand of the State Department in securing the cooperation foreign missions with the aims of the U.S. Government, and with the aims of the D.C. Government and local governments in the area.

With gratitude for your considerations, I am,

Sincerely,

HARRIET B. HUBBARD
(For the Ad Hoc Committee).

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